# CAMBRIDGE LEGAL STUDIES

E. C. CLARK

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BY

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# CHAPTER I.

## PRESENT LEGAL STUDY AT CAMBRIDGE FROM THE REFORM OF 1887.

**The Law Tripos.** The main object of the present chapter is to describe the scheme of legal education at Cambridge marked out by the amended regulations for the Law Tripos which have recently (1887) been proposed by the Special Board for Law and received the sanction of the Senate. This scheme, being the result of considerable deliberation and repeated discussion, is likely to enjoy a comparative degree of permanence; while the number of students affected by it is large and increasing. A few remarks, therefore, upon it may be acceptable, from one who has had some share in drawing it up, together with a good many years' experience of legal studies and examinations both in Cambridge and elsewhere. This position of the writer will, he hopes, excuse an occasional use of the first person, particularly where he is giving utterance rather to his own opinions than to those expressed,

in various reports, by the Board over which he has had the honour to preside. An apology may also be due to the general reader, for a degree of technicality in speaking of University arrangements. Some acquaintance, however, with the system referred to must unavoidably be presumed, as, without such acquaintance, the bearing of this paper would be scarcely intelligible.

Two general questions—whether law can be successfully taught at all in Oxford and Cambridge, and whether examination is a good or bad medium of education—may be noticed here, but must be passed over very briefly. The first has been, and probably will be, often debated as a matter of argument: as a matter of practice, it seems to be, for the present, taken as settled, by the decided encouragement accorded to University Law Students on the part of the London authorities who control the *entrée* to both branches of the legal profession in England. I do not think this encouragement is to be entirely accounted for by the feeling which I may broadly term a "preference for gentlemen," in the production of whom the old Universities of course claim no monopoly. The case, I hope, rather is, that some amount of previous University culture, intellectual as well as social, is found desirable, even by the strongest advocates of a practical legal education, and even at the cost of a little time and money.

The recognition, to which I am here referring, by the profession, is duly valued at Cambridge and

Oxford, and the practical character which it tends to impress upon the University study of law has undoubtedly added a great interest and stimulus to the latter. It must not however be forgotten that the proper function of a University is, according to the old theory—not yet, I hope, exploded—first, to educate its students, and second, to prepare them for their special business in life. This principle is implicitly recognised by the London authorities just referred to, in their selection of the subjects upon which they do and upon which they do not delegate their examination tests to our provincial tribunals. The same principle has been fully taken into account in the present scheme for the Law Tripos. One of the chief results contemplated by the division of the examination into two parts is the suggestion of a normal course of reading, wherein the subjects which may rather be considered as forming part of a high class general education will come first, and those which approximate to actual practice last.

Of examinations in general an old *ex-officio* labourer in that field is not always found to speak with much enthusiasm. Since, however, there is no substitute which is in the slightest degree likely to be accepted in their stead, we must obviously endeavour to make the best of what some among us regard as a necessary evil. Whether we like them or no, examinations are an accomplished fact, and a great part of our educational system. Equal, or greater, in importance is the proper

organisation of a teaching staff: but that subject, rendered, as it is, very difficult from the number of independent authorities whose cooperation is necessary, lies still, for the most part, *in futuro*.

The connexion of the teaching with the examining body is not looked upon with so much favour at Cambridge as in some other Universities, and it has been thought desirable, on the whole, to abolish the standing *ex-officio* examinership of the Regius Professor of Civil Law. On the other hand, the office of examiner has been thrown open to persons not members of the Senate. It may be observed that the power to nominate such persons for election would give the Cambridge Law Board an opportunity of requesting and considering recommendations, for examinership, from the Council of Legal Education and the Incorporated Law Society. This is merely thrown out as a suggestion; but I certainly think that any such recommendations would be well received by the Cambridge Board. If thereby any joint arrangement could be made between the London and University examining bodies, it might not be unreasonable to hope for slightly improved terms of admission, in the case of University candidates, to the respective positions of Barrister and Solicitor.

In passing from these general observations to the scheme itself, it must be first of all observed that no new subjects are introduced into the Law Tripos. The principal changes are, the division of the examination into two parts, the more searching

treatment of Roman and English law by an increased number and more definite assignment of papers, and the fuller recognition of original thought and literary power, in the addition of a second essay paper besides that already devoted to essays and problems. Moreover, General Jurisprudence as a whole, and English Constitutional Law and History as a whole, will henceforth be standing subjects for the students of every year; their previous treatment in variable portions not having been considered satisfactory.

The intention of the scheme throughout is to define and assort the subjects in the most general terms, specifying no books but the Roman Institutes and Digest, and leaving a very free power of making special arrangements for each particular year to the Board. It is competent to the members of this body to emphasise particular portions of any subject, if they think fit, for more detailed preparation. They are also, as before, expressly empowered, from time to time, to *limit* any of the subjects to a department or departments of the same; and the Roman Digest must, from its great extent, be always represented by selected portions. It is not, however, apprehended that the power of exclusive limitation will be very extensively employed. Its use has been expressly deprecated in the case of Jurisprudence and English Constitutional Law; and it has always been avoided in the case of English Property Law, in consideration of the admission of Certificates on

that subject by the Inns of Court, in lieu of part of their own examination.

What further guidance is required, by the student or examiner, beyond the yearly regulation of subjects by the Board, will be found in the list of books recommended from time to time by the same body. Amongst these, bold type is employed to indicate which are to be read as text books, or as books of principal importance, and which are rather to be consulted for purposes of reference. The last editions of all, as of the Law books in general belonging to the University, are retained, for consultation, in the Law Reading Room of the Library, which is furnished with a special catalogue, besides being roughly divided into compartments under the leading heads of Jurisprudence, Roman, International, Foreign and English Law. Further local subdivision by subject-matter is found incompatible with the continual addition of new books; but an index of subjects, printed at the end of Sweet's Law Catalogue, is kept in the room. By means of this the authors' names can be found, under which the Library catalogue is alphabetically arranged.

Before considering the subjects of the Tripos in detail, it may be well to add a few practical remarks to what has been premised above, on a point sometimes too much lost sight of in new schemes of examination. With the two exceptions of Jurisprudence and Constitutional Law—both of which subjects it was perfectly competent to the

Board to set in their entirety under the old system —the increase of work to be henceforth required is rather apparent than real, and the total amount not excessive. A more ambitious—perhaps a more satisfactory—programme might easily have been drawn up; but the ideal course of study, which suggests itself at first sight to a reformer, has to be considerably modified when the actual working power, with which he has to deal, is taken into account.

The time and thought at present devoted by University students to amusements in general and athletic sports in particular is, in the opinion of some authorities, unduly great. A reaction may possibly be expected on this head, though that will depend rather on the British public than on the Universities or the great Schools, both of which are a good deal influenced by what the British public requires of them. But, even under such presumably improved conditions of study, the fact will remain that all large bodies of students, such as we shall generally have to deal with in the case of law, are very unfavourably affected by a too wide range of examination subjects. The few men, who rise to the occasion and do extra work, would probably do it *proprio motu*, or on private advice, without the stimulus of any examinations or degrees at all. The majority, for whom we must, after all, mainly legislate, and who do need that stimulus, can best be brought up to a fair standard by judiciously moderating,

clearly expressing, and very gradually raising the requirements made upon them. Otherwise, they despair of the whole thing or treat it as a lottery. Hence come the "tips," the "cramming" and the death-bed repentance of those unfortunates who no doubt deserve the plucking which they undergo, but are yet to some extent the victims of an injudicious programme.

The total amount, then, of preparation, for the two parts of the new Law Tripos, will perhaps necessitate a little more work than the average of what has been hitherto required for the undivided old one, but certainly not more than can be done by a fairly intelligent young man, with a moderate knowledge of Latin, in two years' regular study. This amount of time *at the least*, is required, and can be secured by all who do not unduly postpone passing their "Little Go," after which a Cambridge Honour man has no further University examination but that of his Tripos. The Little Go—in official language the Previous examination—can be passed at the outset of our University course, and should be so passed by all who wish for sufficient leisure to qualify themselves for the higher distinctions in their Honour examinations, or to make sure of passing those examinations at all.

I may add to these remarks, upon the amount of work required for the Cambridge Honour course in Law, that the division of the examination furnishes a merciful means of timely discourage-

ment in cases of probable failure. The interesting subject-matter of the Law Tripos, the practical utility of the study, and a very false opinion—based upon a state of things which has long ceased to exist—that this is an "easy" avenue to a degree, yearly attract to the examination candidates who are insufficient, either in calibre or in application, to attain Honour standard. Their disillusionment is one of the most disagreeable duties of the examiners, and a pluck at the end of a man's three years entails an additional amount of money, time and trouble, scarcely compensated by the Ordinary degree which he may ultimately obtain. Students who, under these new Regulations, take the first part of the Tripos examination at the end of their second year—as all are strongly recommended, though not obliged, to do—enjoy at least one advantage, in case of failure. They have still a year left, in which they can adopt a line of study more suitable to their powers, and may, without much difficulty, succeed in obtaining the Ordinary degree of B.A. in the ordinary three years' course.

I pass now to a more detailed consideration of the Tripos subjects as re-arranged. These are divided into two classes, the former comprising those which may be regarded as forming part of a high-class general education, the latter those which bear directly upon the practice of English Law. A student cannot be a candidate for Honours in the latter class, unless he has obtained them in

the former, or in some other Honour examination of the University—an alternative to which fuller reference will be made a little farther on.

In the first part of the Tripos, which is intended to be taken, as has been above remarked, at the end of an undergraduate's second year, a prominent place is occupied by Jurisprudence and Roman Law. The latter subject will always require, for success if not for safety, some knowledge of legal Latin. However much the Institutes may be replaced by translations, it is scarcely possible that this can be the case with the variable Titles set from the Digest, still less with the illustrations from the Digest at large, which must continually occur in any good text book on the Institutes themselves.

This necessity of Latin is frequently urged as an objection by those who are against the retention of Roman Law at all, in an English legal education, or at least against its retention in the original language. On the other side we find alleged old usage, the opinion of high modern authorities, and the academical argument that, if legal examining bodies in London retain this semi-classical subject, *a fortiori* should Oxford and Cambridge. But there are also strong intrinsic reasons, apart from precedent and authority, for such retention in the normal University course of legal education. I say the normal course, because it should not be forgotten that there is an alternative allowed in the present Cambridge scheme, by which the diffi-

culty of Latin may be avoided, at least so far as connected with law.

To take the alternative first. A student who has already obtained Honours in any examination of the University, other than the Law Tripos, may entitle himself to a Law degree by obtaining Honours in *either* part of the latter examination. He may therefore so entitle himself, if he elect the second or purely English part of the Law Tripos, without any more knowledge of the classical tongues than is required from every undergraduate in order to pass the Previous examination (Little-Go).

This concession was, I think, mainly suggested by the case of Mathematical Honour men wishing subsequently to take up Law. There are, however, other Honour subjects more cognate to Law, or which might be regarded as a better preparation for it—such as Moral Science, in the wide sense in which that term is used at Cambridge, Classics, or History. It seemed to the Board, on the whole, best to make no selection, but to assume that a fair groundwork of intellectual culture may be laid by *any* of the superior or Honour courses of University study, without distinction.

So much for the alternative referred to, which will, probably, never be adopted in more than a very small percentage of the entries for examination. The scheme of study primarily intended by the Board is, of course, the normal one, which includes Roman Law and involves the difficulty of the Latin language.

This difficulty is often greatly exaggerated. Few of our law students are brought up in entire ignorance of Latin; and, as a matter of general education, it would be surely better for the number to be diminished rather than increased. The particular specimens of that language, which are in point, have not perhaps the elegance, but neither have they the difficulty, of Cicero and Virgil. For the style of Justinian's Institutes and Prefaces there is certainly not much to be said, but the meaning is generally quite clear: the Commentaries of Gaius, and the extracts from the Digest, are almost always sensible in their conclusions—if the conclusions are sometimes based, like our own Coke's, upon strange premisses—and they are always, in their expression, a model of nervous and concise language.

For the subject-matter, as distinguished from the language, we cannot claim, in England, that direct practical utility which it possesses where, as on the Continent and in some of our own Colonies, Roman forms almost a substantive part of modern Law. *Our* Law is mainly of indigenous growth, the transcripts by our early text-writers from Justinian or his commentators are rather by way of illustration than adoption, the formation of law by cases is almost peculiar to ourselves—in fine our whole system has a decided insularity, of which we are perhaps sometimes a little too proud. The exclusive study, therefore, of English Law might, in some minds, lead not merely to a degree of pre-

judice and opposition against reform, but to a certain narrowness of view, and an inability to recognise the proportionate importance of different parts of our own system. Nothing is so good a corrective for these faults—which it would seem to be the proper object of a University education to correct—as the comparison with an entirely foreign system; and, for that comparison, Roman Law appears to have exceptional advantages. Its subject-matter was the result of long and uninterrupted experimental development among the most practical of nations; its Institutional scheme of arrangement, at the close of that development, was a scientific one expressly made for educational purposes; both arrangement and subject-matter enter largely into many modern bodies of law; and the former, at any rate, was roughly followed by our own leading Institutionalists, Hale and Blackstone.

Much of the advantage here attributed to the study of Roman Law might appear to be obtainable from the Institutes alone; and it has therefore been occasionally proposed to dispense with the Digest subjects, which undoubtedly cause the most part of the linguistic difficulty. This proposal has not been and is not likely to be accepted by the Law Board of Cambridge. Quite apart from its convenience as an examination subject, the Digest alone can give a life and meaning to the dicta of the Institutes, which would otherwise pass through most minds as a mere string of theoretical proposi-

tions. The selected portion of the Digest, in fact, furnishes, to the necessarily standing book-work of the Institutes, an admirable series of illustrative problems, and those problems must, like all others, be from time to time varied.

A professor of Roman Law may perhaps lie under some slight suspicion, in his plea that there is nothing like leather; and it would of course require some resolution to propose or acquiesce in the happy despatch of one's own subject. The writer may perhaps therefore be excused for observing that he has had, from official experience at Cambridge and elsewhere, not less to do with legal education as a whole than with Roman Law in particular, and that he has practically found the latter by no means the least interesting or suggestive part in the legal *curriculum*. It was remarked, in the best attended discussion on the proposed changes at Cambridge, that the strongest defence of the Digest came from one who had just passed from the ranks of the students. We may certainly question whether an equal amount of work would be substituted in the place of Roman Law, if abolished, and may, even on this account, believe that its abolition would be an injury alike to the Universities and the legal profession.

Somewhat more special attention has been drawn, in the present scheme, than previously, to the general principles of Roman Law—as apart from the text of the Institutes and Digest—and to its history. The lower limit, in point of time, of

the latter subject is not fixed. There is no doubt that the tracing down of Roman Law to modern times, and the comparison of Continental systems with one another and our own—so far at any rate as they have anything to do with that common heritage of antiquity—would be a most valuable addition to any course of legal education. Although, however, not excluded by the terms of the scheme just sanctioned in Cambridge, it is at present found too much to be included in that scheme's practical working. Some of the results of such comparison may perhaps be introduced under the wide head of General Jurisprudence.

This last named department, which is among the most valuable of all to the teacher for attractive interest and to the examiner for testing power, labours under the disadvantage of a somewhat indeterminate subject-matter, and a very intractable text book.

Most teachers of Law will agree that some general principles and definitions, coupled with some broad scheme or classification of subject-matter, would be a valuable preparation for all legal study. Many, however, question, with reason, whether such scheme, principles or definitions would have any living meaning, unless illustrated by an actual body of Law. It is for this purpose that Roman Law, with the scientific classification of its Institutes, and the general acceptance of some of its principles and distinctions in many modern systems of Law, has a peculiar value when

studied, as it always should be, with an eye to Jurisprudence. The designation of this last named subject as General *or Comparative* has been abandoned. Any work on General Jurisprudence, which is not mere *a priori* speculation, must, in the opinion of the present writer, be Comparative, as regards the various systems and portions of systems, upon an observation of which it is based by its author. But to require such a comparison to be made by the student, before he has mastered more than one system of Law, would be an absurdity. One of the main objections against Austin's Lectures, as an introduction to the study of Law, is, that, while they rightly connect with Jurisprudence the comparatively simple subject of Roman Law, they also presuppose a somewhat detailed acquaintance with English. Now, when treated as an introduction, the generalisations of Jurisprudence must necessarily be stated, like other definitions and axioms, almost exclusively of the particulars from which they are gathered, except such illustration as can be furnished by the one simple system taught together with them. Any fuller comparison of different bodies of Law should either be expressly specified and limited for students in the earlier part of their course, or only recognised in the later; where its best place would be, as suggested by the Cambridge Law Board, among alternative subjects for essays.

The use of Roman Law to which reference has just been made is obviously kept in view throughout

the whole of Austin's great work. This, although open to other objections besides that above stated, cannot yet, in the opinion of the Board, be discarded as the text book of Jurisprudence. Until there can be found some more complete and at the same time more easy and elementary substitute, than has yet appeared, it seems unavoidable to make his Lectures the *pièce de résistance*, supplementing them, where necessary, with books or portions of books on the same subject by other authors. With regard, moreover, to the Lectures themselves a great part must be played by the teacher or lecturer, in pruning their burdensome amount of detail, enlarging their limited point of view, and correcting their occasional historical errors.

Public International Law stands, it must be admitted, at first sight in somewhat incongruous company with the other subjects selected for the former half of the Law Tripos. Its foundation, however, and more elementary principles have a close connexion with some of the leading topics of General Jurisprudence; its deduction, in part, from Roman Law, has at any rate the authority of its great founder Grotius; its history, with its simpler rules and cases, will generally be found very attractive to University students of Law. More complicated questions, such as require some knowledge of modern municipal law, may come, as subjects for essays, in Part 2: but that part would have been much over-weighted by the insertion of Public International Law bodily.

Little support has been found for a proposal to omit this interesting subject from the University *curriculum*, rendered, as it is, more interesting by the Whewell scholarships and Professorial lectures. This endowment has hitherto been applied principally, if not entirely, to the teaching of Public International Law. Nor has it been thought desirable to include the more technical rules known, properly or improperly, as Private International Law, in the Tripos.

English Constitutional Law and History, including (as one of the Reports of the Board interprets the list of subjects) a general view of the present English legal institutions, complete the more educational or introductory part of the Law Tripos. A great difficulty on this extensive subject is to find some manageable text book, which shall be at once compendious and trustworthy. But it was the almost unanimous opinion of the authors of this scheme, that the method, which had been lately followed, of requiring one period only from men belonging to a particular year, was very unsatisfactory, and that *all* ought, in spite of difficulties, to know something of the Constitutional Law and History of their country, as a whole. The "general view of present English legal institutions" is not a very clear expression, and will require elucidation by the notices of the Law Board. My own impression is that something like the subject-matter of Blackstone's first volume (except the law of purely private conditions) was intended.

An essay and problem paper, upon the subjects of the first part of the Tripos generally, is added, in which the present system of *alternative* questions or theses will doubtless be maintained.

The second, or more purely practical, part of the Law Tripos requires but little explanation. It consists almost exclusively of English Law other than Constitutional Law and History. There was no particularly strong reason for divorcing the last named subject from the remaining part of English Law, except that it seemed distinctly to belong to a high class general education, while the remaining part was quite enough for one year's undivided work.

The very inconvenient separation of Real and Personal Property Law into two several papers is now authoritatively avoided—as it has long been, unauthoritatively, in practice—by the assignment of two papers to these subjects jointly. Contract, instead of its former unrecognised existence as a questionable part of Personal Property Law, is similarly coupled, for convenience, with Tort, in two substantive papers.

In view, partly, of recent legislative changes, it was not considered desirable to take Equity as a separate heading, but to include the Equitable principles applicable to each of the subjects specified, together with those subjects.

Criminal Procedure has been expressly coupled with Criminal Law, and Evidence added to the same paper. The last named large and some-

what technical subject will probably require occasional limitation or definition by the Board.

The second part of the Tripos also includes a sixth paper, of subjects for essays, in which it is provided that the essays shall have reference partly to the subjects of the first and partly to those of the second part. The intention, in including the former, was to recognise any more advanced knowledge which might be acquired, on the subjects assigned to the first part, either from illustration of those subjects by reading for the second, or by further study of those subjects themselves. The cases more particularly suggesting themselves to the Board were those of General Jurisprudence and Public International Law. There was indeed a feeling that no part of the University course of reading should be finally dropped, before the end of the University career, which formerly induced the Board to object to a division of the Tripos. And although that feeling has had to give way, on the point of division, to other considerations, it has prompted this endeavour to give some encouragement, in the second part of the Tripos, to a continuance of study on the subjects of the first. Over-pressure of work upon the weaker candidates for both parts, or unfair disadvantage to outside candidates for the second part only, will be obviated by the adoption, here as in the former essay and problem paper, of a sufficient number of *alternative* essay-subjects.

The **Law Degrees** of the University of Cam-

bridge are simplified and rendered more generally intelligible by the new Regulations. Vested rights are, of course, not interfered with. Masters of Arts or Bachelors of Law, who were admitted to those degrees before July 31, 1858, are entitled to proceed to the degree of Doctor of Law without more examination than is involved in the keeping of an Act; as are also Masters and Bachelors of Law becoming entitled to proceed to those degrees at or before the Law Tripos (under the old system) of 1889. The last class includes, besides persons who have taken Honours in the Law Tripos, a number of Bachelors and Masters of Arts, who have passed, under the old Regulations, an examination, for a law degree, varying from time to time both in subject and difficulty, and recently consisting of the three papers on English Property and Criminal Law in the Law Tripos. A different provision has now been made for such cases. There will still be members of the University, no longer young, desirous of proceeding to the Master's and so to the Doctor's degree in Law, although they have not studied in the ordinary course for Honours. The Board felt that the requirement on such persons, to show a knowledge of all the various subjects comprised in the whole Law Tripos, would be not only severe but also unlikely to promote thorough study. On the other hand, they held it to be extremely desirable that the Law degrees should henceforth indicate some uniform attainment of Honour standard. It was

therefore decided that the case of such older candidates which was more likely to occur and more worthy of consideration might be met by the alternative previously referred to, of satisfying the examiners for the Law Tripos in *either* part, if a previous Honour degree has been taken. Where such degree has *not* been taken, satisfaction must, it was considered, be required in *both* parts, which might be taken either in the same or in different years. The only difference, then, between these older candidates and those who present themselves within the ordinary time from matriculation in the University is, not in degree—for which there is no superannuation—nor in the minimum standard required, but in the fact that the former are merely returned as *satisfying* the examiners, it not being considered fair that they should come into competition with presumably younger men for place-distinctions and prizes.

With the exception, then, of two small and diminishing classes of persons, every Cambridge Law degree, after the Tripos (old style) of 1889, will signify that its possessor has attained at least the minimum standard for Honours, either in both entire parts of the Law Tripos, or in one such part after attaining the same standard in some other Honour examination of the University. The degree of Master, in Law as in Arts, will indicate no further qualification but the completion of three years from taking the original Bachelor's degree, whether in Arts or Law. The degree of Doctor

will indicate, as it does at present, the completion of five years from taking the degree of Master of Law, and also the having kept an Act.

The Act in Law is still an oral exercise, including questions, by the Regius Professor or other graduate of the faculty of Law, who presides, upon the subject of the thesis, or occasionally of a more general nature. The substantial part, however, of the work, is the production of an original treatise upon the subject, which is selected by the candidate, with the approval of the Professor, from Roman, English, or International Law, or from Jurisprudence. Subjects are, of course, preferred to which the candidate has devoted some special attention, professional or otherwise. The treatises have been for some time, in practice, of considerable merit, and are often printed, either before or after the Act is kept. It was under the consideration of the Board whether previous printing should not be in all cases required, as a means of testing the originality and sufficiency of the treatise. As, however, the expense involved would be considerable, it was ultimately agreed that the same objects might be regarded as fairly secured by the previous transmission of a copy of the exercise, written or printed, to the Regius Professor or presiding graduate.

The **places** and **prizes** of the Law Tripos are, as distinguished from the Law degrees, confined to candidates who do not exceed a specified Academical standing. The former distinctions are

found in two separate lists published for the two parts of the Tripos, each divided into three classes and arranged throughout in order of merit. It was considered by the Law Board, after some discussion, that the retention of this order, with a free use of brackets, would represent real differences in the fairest and most intelligible manner. No regulation is made about *marks*, but it has been the practice for some time to assign an equal amount to all papers, to maintain uniformity of standard rather by a certain continuity of examiners than by observing an exact numerical equality for the same places between year and year, and to refuse all information either as to details or totals. Advice, however, is freely given to candidates for other examinations, as to their weak points, upon which further study would be desirable.

Two prizes are offered, one for each part of the Tripos examination, in cases of exceptional merit—the George Long prize, among candidates for the first part, for Roman Law and Jurisprudence; the Chancellor's Medal, among candidates for the second part (and certain other students of Bachelor standing), for that part of the examination, so far as it relates to English Law. This use of prizes has been much canvassed, especially in the case of the Chancellor's Medal, for which an independent examination was originally required. The feeling, however, of a majority in the Law Board and the Senate has been that, under present

circumstances, a more beneficial result may be attained by inducing some portion of the numerous candidates for the Tripos to aim at a high standard, for the sake of these prizes, than by attracting, to some independent work, such very small numbers as were found to present themselves for the Medal Examination when separate. The experiment, as the present regulation should perhaps be considered, has scarcely been tried long enough, under the old Tripos system, to enable a judgement to be pronounced upon its success.

The regulations in detail, relating to Cambridge Law examinations, prizes and degrees, will be found in Chapter III. I have also added the Rules for call to the Bar and admission to practice as Solicitor, so far as they contain any special provision for University candidates.

The **Law Special.** The above remarks are confined to the Honour course of legal education at Cambridge, for which alone, in that University, Law degrees are conferred and certificates granted. On the course for the Ordinary degree, so far as concerned with Law, a few words must here be said, with such deference as is due to a long established and popular system. It is, in my own opinion, only the "Special" examination, forming the close of that course, which makes any addition to knowledge that might fairly be expected from the fourth form of any public school. This remark certainly applies to the subjects of the Previous Examination or "Little-Go" which,

however, often occupy the Poll man's first year and sometimes more. The subjects of the General Examination are a little advanced in character, but not beyond the capacity of the "shell"; and, being individually new, they require a fresh year's preparation. On the whole, then, the reading for the final or "Special" examinations does not often begin much before the last of a University student's three years. It is during this short space of time that the Law Board, in advising the University, have to make what they can of the Law Special Examination, as an instrument of legal education. Their task is not an easy one, and the successive attempts to perform it can scarcely be considered as satisfactory. Latin has been for some time dispensed with, and the final proposal of the Board has been to abolish Roman Law altogether, as a subject for the Ordinary degree, contenting themselves with the more moderate requirement of English Law, and that confined to certain departments. The addition of an elementary essay and problem paper will, it is hoped, furnish a test and a reward for intelligent reading. The combination of the Law and History Special Examinations under one board of examiners was a legacy from the times when Law and History formed one Tripos, and their separation was an obviously necessary reform. The regulations for the reformed Law Special, which is to be first held in 1890, are printed in Chapter III.

It will be seen that the reading for this

examination, if thorough, will be neither useless nor contemptible, but it is scarcely to be called a legal education. At any rate, both the time and the scope of the study are too limited to deserve a degree in Law, or a certificate exempting from any part of the London legal examinations. The best treatment, in my opinion, of a candidate for the Ordinary degree at Cambridge, is to turn him, if possible, into a candidate for Honours. As such, he may, of course, idle through his time in the hope of scraping, with luck, into a third class. Such luck, however, is rare, at least in Law, and I have great hope that idleness is becoming rare also, in the Honour man. He has, at all events, had open to him a wide and truly educational course of reading, instead of the repetition of mere school work twice over, followed by the somewhat arduous attempt to assimilate an entirely new class of subjects in his last year.

The study of **Indian Law** at Cambridge can scarcely be considered apart from the special requirements of the Indian Civil Service. The regulations for the Cambridge Law Special allow the Indian Penal Code and Contract Act to be taken up as an alternative to the first and third subjects in the normal course of reading prescribed for that examination. Moreover, the study necessary for the Law Tripos, and that required from the Selected Candidates for the Indian Civil Service do at present, to some considerable extent, overlap one another. As however

the regulations for these Candidates depend upon the Civil Service Commissioners, not upon the University, and special provisions have to be made by the latter body or its Board of Indian Civil Service studies accordingly, it is rather to the official Reader in Indian Law that application should be made, on this subject, than to the ordinary channels of information as to legal study in the University.

**Lectures,** with other instruction in legal study, are given by the Professors, the University Readers, and the College lecturers or other teachers recognised by the Special Board for Law. A list is issued by the Board at the beginning of each term. This is posted on the door of the Arts' School, at present used for the purposes of the old Law School (which is now entirely absorbed in the University Library), and on the screens of the different Colleges. It is also published in the University Reporter, the particular number of which (price 3*d.*) may be obtained from Messrs Deighton, Bell and Co., Cambridge.

The subjects of the Downing Professor of the Laws of England, the Whewell Professor of International Law, and the Reader in English Law speak for themselves. The Regius Professor of Civil Law combines, with that subject, Jurisprudence. For the Reader in Indian Law and the other lecturers, reference must be made to the published list.

The Colleges at which special Law Lectureships have been established are, Gonville and Caius,

Trinity Hall, St John's, Trinity, Christ's and Downing. A somewhat greater degree of personal supervision of study is perhaps received by undergraduates belonging to these Colleges, from their particular College lecturer; but, generally speaking, I believe that each course of instruction is now, by means of the Intercollegiate system, practically open to the whole University. Any fees which are payable are announced in the above mentioned list.

**Scholarships, Fellowships, &c.** The only University Scholarships devoted to the promotion of legal study are those of Dr Whewell's foundation, the regulations for which will be found in Chapter III. I must refer to the same chapter as to details respecting the Yorke Prize, which is open to graduates of the University of Cambridge, for the best essay upon some subject relating to the law of property.

As to College Scholarships, application should be made to the Tutors for information, the practice of individual Colleges varying considerably and being by no means in a final condition. Speaking generally, I believe that little encouragement is given to Law by way of Minor or Entrance Scholarships, except at Downing. Most of the Colleges recognise or propose to recognise proficiency shown in Law at the Annual College Examinations, as one qualification for Undergraduate Scholarships and Exhibitions. Here again however the legal student appears to stand in a rather more favourable position at Downing than at the other Colleges.

**Studentships** are open, at Trinity Hall and St John's, to the competition of graduates of those Colleges who intend to prepare themselves for practice in the profession of the Law. These Studentships are of the yearly value of £50 at Trinity Hall and £150 at St John's. The latter (the McMahon Law Studentships) are a comparatively recent foundation, and are not sufficiently known to intending practitioners.

With regard to **Fellowships** the study of Law stood, until very recently, at a disadvantage as compared with other studies, which were considered, not without reason, to represent a better education and to attract a superior order of power. As, however, the importance of the Law Tripos has increased, not only from the greater number of students who enter for it, but from the undoubtedly higher standard attained by the best men, and from the better appreciation, at Cambridge and elsewhere, of the studies with which it is connected, an increasing encouragement has been given to proficiency in Law, by way of College honours and endowments. Fellowships have been already awarded, on the strength of Law, or Law and History combined, at Downing, Trinity Hall and King's. There is reason to hope that the example may be followed by other Colleges also, now that it is beginning to be understood that the Law Tripos represents a very wide extent of useful reading, in which it is no easy matter to attain the real distinction of a first class, or even the very

respectable position of a second. For the lower part of our list, of course we cannot claim rewards, but a considerable amount of experience as an examiner justifies me in asserting that it is now a very rare occurrence for an idle or ignorant man to obtain a Cambridge degree in Law.

**Practice.** Students who are preparing for practice at the Bar enjoy, in their London career, certain advantages, direct or indirect, from the course of legal study at the University. These, however, will be best seen from the actual Regulations of the Inns of Court, of which those most in point are set out below (Chap. III.) A few remarks are there added respecting candidates for admission as Solicitors.

For practice itself—if I may return for a moment to a subject briefly dismissed at the beginning of this chapter—the once prevalent belief in the inutility of Cambridge legal study is, I hope, wearing away. Even in Roman Law a certain amount of direct profitableness has been admitted, in respect of our Ecclesiastical and Admiralty Jurisdiction. And although the Doctor's degree is no longer a necessary qualification for practice in Courts of this character, it is, as I am informed, by no means without its indirect advantages in the large class of cases where continental law and litigants are concerned. But I prefer to rest the benefits derived from the course of legal study at Cambridge upon wider ground.

These lie partly in the nature of the study itself,

partly in the local circumstances under which it is pursued. The subjects to which the reading of students is directed are mainly the principles or scientific part of Law. The importance of laying a foundation of these, before essaying practice, is generally insisted upon by the writer on law, as distinguished from the practitioner. But even from the latter's point of view the advantage of beginning with a scientific education will seldom be seriously contested. We may leave it to those who have begun legal work, as too many still do, without this education, to say what time and labour they might have spared themselves, by having the general principles of their Law ready to hand, instead of being obliged to learn them piecemeal from the incidental requirements of practice.

These remarks apply, at any rate as far as English Law is concerned, no less to Solicitors than to Barristers. It is surely from an unfair point of view that the former are sometimes considered as merely capable of technicalities, while the whole science of Law must be left to the higher branch of the profession. Nor is this merely a question for the dignity of the practitioner, but for the interests of the client as well. These are in some risk, if the adviser consulted in the first instance, by whom the wishes or grievances of the consulter are first put into legal form, is unable to rise above the barest empirical handling of the facts before him. Instruments of extreme importance, and involving

a knowledge of the principles of Law, must not infrequently, from mere pressure of time, be drawn and executed, especially in the country, without submission to Counsel. The decision, again, whether recourse to a court of law is, under the circumstances, advisable or not, lies mainly in the Solicitor's hands. It is equally unfortunate if, in the first case, his unscientific work leads to subsequent litigation, and, in the second, all that he can do is to recommend proceedings and draw a brief.

But undoubtedly the advantages of the educational method here recommended are most evident in the training of those who seek the higher dignities and the positions of more extended usefulness to which the Bar is an avenue. The superiority of the scientific over the empirical lawyer is nowhere so patent as in their respective qualifications for the post of judge, or of legislator. The former office, too, at least in England, continually involves the latter, and in a manner which, because indirect, is less subject to constitutional checks. Hence the special importance that an English judge should be one whose mind is not a mere repertory of unconnected precedents, but a well-ordered system of principles and experience combined.

In legislation direct and proper the capacities and the incapacities of the lawyer have been often observed. The value of professional experience is incontestable. Without its assistance the most acute men of business and the sincerest patriots

would alike make most hazardous additions to our statute-book. But, for the statesman-like width of view and the reforming spirit, which ever strives to bring harmony and simplicity out of confusion, an element beyond that of mere technical training is necessary. And this element it is the special function of the study of General Jurisprudence to supply.

That the views above stated are not mere theory is testified by the express opinion of our most eminent practical men. Reference on this subject may be made to the speech of Lord Selborne (Sir Roundell Palmer), in 1871, on his proposal for the establishment of a general school of Law in the metropolis, to the letters in the Times newspaper, upon that proposal, from both branches of the profession, and to the recent report of the special committee of the University of London on the Regulations for degrees in Law.

If, however, the experience of lawyers admits the great importance for those who practise the Law to have been well grounded in the principles of Jurisprudence, the experience of teachers equally shows the difficulty of inducing men, who look forward to practice as early as possible, to spend any time on the acquisition of those principles. And this difficulty indicates the local advantage of Cambridge as a place of scientific legal study. The school of practice must, of course, be attended at some time in a man's career: it exists only to a very small extent in Cambridge,

and to the highest perfection in London. For this very reason the University town is a better site than the metropolis for that scientific reading which ought to come first. It is certain that such study cannot be practised without disturbance, and is in danger of being entirely ousted, wherever it is brought into close neighbourhood and consequent competition with the attractions of actual business. In other respects the advantages of London and Cambridge are pretty much on a par: men of equal ability will probably be attracted to the respective educational posts; and the conveniences of study offered by the University library are as good as any that can be found in the metropolis: but Cambridge has what London has not, in the leisure which is necessary for studying principles; as London, on the other hand, has what Cambridge has not, in the business which alone can teach the application of those principles to practice.

## CHAPTER II.

### EARLIER LEGAL STUDY AT CAMBRIDGE.

**LL.D.** The abbreviation LL.D., for *legum doctor*, was once considered the special style of the highest law degree in Cambridge, as distinguished from the same degree in Oxford. In recent times, however, while this style has been adopted elsewhere than at Cambridge, in that University itself other styles have been occasionally substituted. A desire for uniformity and intelligibility induced me, some time ago, to enquire what our *legum* originally meant, what it has come to mean, and how far it is correctly applicable, at least to Cambridge degrees, at the present time. In the end I have been led into a short historical sketch of the legal studies pursued at Cambridge during three periods; (1) from the earliest times to the Royal Injunctions of 1535, (2) from those Injunctions to the reforms which resulted from the Cambridge University Commission of 1850, (3) from those reforms to the present time. For convenience I add in a note the abbreviated style of certain somewhat sesquipeda-

lian authorities which I shall frequently have to quote[1].

1. **Leges.** The disputed style which first attracted my attention takes us back to the beginning of our European legal study. **Lex**, in classical Latinity, whatever its original derivation, is free from one ambiguity attaching to our word *law*. It meant an *individual statute*, formally enacted, not a *body of law*, the name for which is *jus*. Sometimes *lex* appears to mean the whole code of the Twelve Tables, but this is because that code was understood to have been passed as one law[2]. Now, by Justinian's legislation, the extracts from the old juristic writings, which constituted the Digest, with the *dicta* of the newly compiled Institutes, were made to have the force of *leges*, as well as the Imperial

[1] **Cooper**, Annals of Cambridge. 1842.
**Documents** relating to the University of Cambridge. Published by the Commissioners of 1850.
**Lamb**, original documents from MS. library, Corpus Christi College. 1838.
**Mullinger**. The University of Cambridge, (1) from the earliest times to the Royal Injunctions of 1535, (2) from the Royal Injunctions of 1535 to the Accession of Charles I. 1873, 1884.
**Peacock** on the Statutes of the University of Cambridge. 1841.
**Report**, 1852, of the Cambridge University Commission
**Willis and Clark**, Architectural History of the University of Cambridge. 1886.
**Wordsworth**, Studies at the English Universities in the 18th Century. 1877.

[2] See generally Clark, Practical Jurisprudence 1, ch. 3.

Constitutions which more properly deserved the name[3]. Hence mainly—although some traces of an earlier use of *lex* in this extended sense may be gathered both from Justinian himself and other sources—each extract in the Digest came to be quoted as a *lex*, and the whole body of Justinian's Corpus Juris might not incorrectly be spoken of as the *leges*. In this sense, which occurs in the 12th century, if not earlier, the plural *leges* is exactly equivalent to the singular *jus*[4], and its meaning is best expressed in English by an idiomatic rather than a literal rendering as *the Roman Law*.

On the other hand, in the debased Latinity of the kingdoms which arose out of the western Roman Empire, the singular *lex* also assumed the meaning of a *body of law*[5]. This use of the word has been widely extended, and it is popularly believed that the plural *legum* in the phrase *legum doctor* refers to two systems or bodies of Law, the Civil (*lex civilis*) and the Canon (*lex canonica*), a degree in which is more classically designated by the style

[3] Instt. Prooem. §§ 6, 7. Constitutio "Tanta" § 23. The sentences of the Institutes, alone, do *not* appear to be spoken of as *leges*.

[4] Compare the *Petri exceptiones legum Romanarum* of France and the *Corpus legum* or *Brachylogus* of Italy. These works are attributed to the 11th and 12th centuries respectively. They are both based on the Institutes, Digest, Codex and Novellae. See Savigny, Gesch. 2, cc. 9, 12, pp. 130, 136, 143, 249, 252.

[5] Mackeldey, Lehrbuch, §§ 58, 88. Savigny, Gesch. 1, c. 3, pp. 105—112.

*juris utriusque doctor*. I myself venture to hold a different view, which I think may be supported by historical facts of intrinsic interest, apart from the mere question of style.

**Leges and decreta.** Some time after the revival of the study of Roman Law by Irnerius at Bologna (c. 1113), Gratian, in the same city, published his *Decretum* or *Concordantia discordantium Canonum* (1151), from which publication began the more regular and systematic study of the Canonical or Pontifical Law, as distinguished from the Civil, Imperial or Caesarean. The two subjects were probably not combined at first, as the secular one was for some time discouraged by the see of Rome. They were known, not only by the above titles, but also as the *leges* on the one hand, and the *decreta* or (later) the *decretales* on the other[6]. An interesting Italian diploma of the 13th century is quoted by Guenoux, in which teachers of the one system of law or the other are unmistakeably distinguished as *doctores legum* or *decretorum*[7].

The study both of *leges* and *decreta* soon spread beyond Italy. The *leges* upon which Vacarius was said *legere* and *docere* at Oxford (1149), in spite of King Stephen's prohibition, were apparently the Roman law proper. This at least I should gather, partly from the date of Vacarius' teaching, partly

[6] For the exact distinction, which was observed in our own scheme of legal study, between *decreta* and *decretales* (sc. *epistolae*) see Documents 1. 367, note 2.

[7] Translation of Savigny's Geschichte, T. 4, App. No. 14.

from the contents of the writings which are most probably attributed to him[8]. But at the close of the twelfth century the study of the Canon, as well as the Roman Imperial, Law, and a distinction of their respective students as *decretistae* and *legistae*, were already well known in England[9].

A little later we find the teaching of *leges* recognised as existing in London and prohibited, at least for that city, by a writ of Henry the Third, bearing date 1234[10]. Whether *leges*, in this prohibition, bore its strict sense, or was extended to cover the *decreta* as well, may be questioned. For the former alternative is to be urged the fact of the established distinction of *legistae* and *decretistae* already referred to; for the latter, the probability that the ordinances of the Roman ecclesiastical authorities might be looked on with even more jealousy than the Roman laws properly and originally so called.

Selden took *leges*, in this prohibition, to mean *jus Romanum*, Coke *jus Romanum et Anglicum*[11]. The latter interpretation, which is certainly very questionable, may have had something to do with the popular rendering of *legum doctor*, as the

[8] Selden on Fleta 7. 3: on Fortescue 23, n. 21.

[9] Selden on Fleta 8. 1. Matthew Paris anno 1196: see Luard (Rolls Series) 2, p. 433.

[10] Ne aliquis scholas regens de legibus in eadem civitate (Londinensi) de cetero ibidem leges doceat. See Selden on Fleta 8. 2.

[11] Selden on Fleta 8. 2: Coke 2 Instt. Prooem.

teacher of *two leges*, i.e. bodies of law. Other writers have considered the teaching of *English* Law alone to be here prohibited, the intention being to confine such teaching to the neighbourhood of Westminster Hall[12]. I incline to the view that Henry the Third's prohibition was aimed generally at the foreign law, and had nothing to do with the English, *leges* being probably used in a vague and general way for *leges et decreta*.

On the other hand the style of *legum doctor* in a writ of Edward the First, dated 1273, and providing the younger Accursius, under that style, with an official residence at Oxford, clearly indicates Roman Law proper alone, that being the special subject of the Accursii[13]. The invitation of this jurist to England by Edward is probably referred to in a passage of Fortescue on "English princes having gone about to bring in the *civil laws* to the government of England," which Selden professes himself unable to understand[14].

The study of Civil Law had now for some time outgrown the early disfavour of the church. The story of the monk of Evesham, or rather Eynsham, in Matthew Paris, referred to above (note 9), introduces us, towards the beginning of the 13th

[12] See Strype's Stowe, 1, ch. 21, and Herbert's Antiquities of the Inns of Court and Chancery, p. 166.

[13] Selden on Fleta 8. 2. Accursius is called elsewhere by Edward *Familiaris noster juris civilis professor*. Rymer 1, p. 524.

[14] Fortescue de laudibus c. 33, and Selden's note 21.

century, to the *clerical* teaching of both *leges* and *decreta* as a lucrative profession. In the latter part of the same century we learn from Roger Bacon that the learning of the secular Law had been eagerly adopted by the more ambitious of the clergy and had come to be considered as an indispensable appendage or preliminary to that of the Canon Law itself[15]. This ancillary character of the Civil to the Canon Law is marked both in early College Statutes of Oxford[16] and in our own Statuta Antiqua[17]. It does not, as we shall see, prevent the two studies from being recognised as distinct, and in strictness distinguished by separate styles and schools: but it may possibly have led to a confusion of what were really two faculties under one title, in less carefully worded documents. We in modern times have also this difficulty that, where obliged to rely upon secondhand authorities, we have often only their interpretation of ancient styles, instead of true copies.

**Cambridge.** Our best authorities as to the earliest condition of legal study in the University of Cambridge are the Ancient College and University Statutes. For degrees actually taken we have also the University Register supplemented by occasional descriptions and "additions," more or

[15] See Roger Bacon (1270) Compendium Studii Philosophiae, cap. 4. Quoted in Mullinger 1. 210.

[16] For Merton (1274) see Mullinger 1. 167. Willis and Clark 1. xxxii. For Oriel (1325) Willis and Clark 1. xxxvii.

[17] Documents 1. 376. See below, pp. 49, 51.

less accurate, in old deeds and other contemporary documents. I may, however, first notice what information can be gathered from records as to the buildings employed for legal study, and from the terms of a Papal Bull respecting it.

In the era of **Hostels**, which preceded that of Colleges, we may infer that a considerable number of these houses were specially devoted to *Juristae*, or students of Law generally described, as opposed to *Artistae* or students of Arts. The inference is based upon the statements of Archbishop Parker and Dr Caius as to this specialisation of the Hostels, which lasted to their time from a much earlier one[18].

The **Schools** employed, in the oldest time, for University exercises or lectures, were temporarily hired. The first which Caius mentions as the property of the University were those of *philosophia* and *jus civile*[19]. These were apparently built on ground given to the University shortly before 1278[20]. The latter of the two may possibly be the *scolae legis civilis* mentioned in a deed of King's College bearing date 1398, and were no doubt part of "our great schools in Scholars' Street" out of which a rent was granted by a lease of the Chancellor and University dated 1347[21].

[18] Caius, Historia Cantabrigiensis Academiae (1574), pp. 46—51. Cf Lyne's Map and Parker's Catalogus, Willis and Clark 1, xcvii., xxiii.

[19] Caius, p. 80.

[20] Willis and Clark 3, p. 3.

[21] ib. p. 10, n. 2. I cannot find the *scolae legis civilis* in

New schools, of *philosophia* and *jus canonicum*, were, according to Caius, built adjoining those above mentioned: later still, schools for Theology, completed in the year 1400[22]. The old School of Civil Law (*Scola antiqua juris civilis*), becoming ruinous, was removed in 1459[23], the old School of Philosophy having been either connected with it or actually included in the same building. New schools in these subjects were taken in hand and completed about 1473[24]. There is some question about priority of date between the schools for Canon Law and Theology, and it is not quite clear how Philosophy and Civil Law shared their school[25]: but it is well established that we have, in the basement of the present Schools Quadrangle, the following buildings. On the North, the School of Theology completed in 1400; on the West, the School of Canon Law (now the Arts' School) completed, as I understand Dr Caius, before, but as made out by Mr J. W. Clark, after that of Theology; on the South, the School of Civil Law, and probably Philosophy, completed in 1473 and replacing old buildings, devoted to the same use, of the late 13th or early 14th century. Of the

the deeds of King's. The reference is due to an unpublished note of Professor Willis kindly communicated to me by Mr Clark.

[22] Caius, pp. 80, 81.

[23] Lease by Corpus Christi to the University. Willis and Clark 3, p. 6, note 1. Also Caius, p. 81.

[24] Willis and Clark 3, pp. 12—15.

[25] ib. p. 21.

East side of the quadrangle, and its upper stories, I need not speak, nor of the various shiftings about of the different Faculties. The whole building is now absorbed into the University Library; but the lectures of the Professor of Civil Law, with a few others, are still delivered in the old Canon Law School.

**College** The foundation of Peterhouse, the oldest College at Cambridge, is dated on the removal, by Hugo de Balsham, of his scholars previously established in the Hospital of St John, to their new hostels next the Church of St Peter, now St Mary the Less, in 1284. The Statutes, however, of the College were not completed till 60 years later.

**Papal Recognition.** In 1318 Cambridge was first recognised by the Pope (John 22), at the request of Edward the Second, as a place of *studium generale*, and the corporation of its Masters and Scholars as a *Universitas*[26]. Seven years later another Bull of the same Pontiff[27] directed the reading of certain Constitutions—probably the *Extravagantes Johannis*—in the schools of the University *like the other decretals*[28]. This shows that the study of the Canon Law was at any rate established in Cambridge before 1325.

[26] The Bull is given in Dyer's Privileges 1. 61, though there wrongly attributed to Pope John the Tenth. For the advantages of a *Universitas*, see Lamb, xviii.

[27] Dyer 1. 14, No. 21.

[28] De quibusdam constitutionibus in scholis legendis sicut ceterae decretales.

The **Ancient College Statutes** furnish us with the earliest specific information, of ascertained date, as to legal studies at Cambridge. I shall here briefly notice such of them as contain provisions on this head, prior to 1535.

In the statutes of Peterhouse, signed by Simon Montacute a. 1344[29], the two studies of *jus canonicum* and *jus civile* are recognised as alternative to one another and to the study of Theology, following after that of Arts. Not more, however, than two scholars were to devote themselves to these subjects, until the members of the College had notably increased, when two might be allowed to study the *jura civilia* and two the *jura canonica*[30]. In Gonville Hall the original statutes (1348) recognised Theology as the proper subject of study for the Fellows, after their course in Arts. It was, however, permitted to every Fellow, though not obligatory on him, to devote two years to the study of *jus canonicum*[31]. The later statutes of Gonville's executor Bishop Bateman (1353) oblige all the Fellows to proceed to the degree of Master of Arts, but permit them, after a year's lecturing, to devote themselves *ad jura civilia seu canonica*, or to the science of Theology or Medicine according to their

[29] The earlier statutes of Michael House (1324) confine the intended scholars to Theology. See Mullinger 1. 234, and App. D, p. 641.

[30] Ancient statutes of St Peter's College, c. 24. Documents 2. 21, 22.

[31] Baker MSS. xxix. 268, 70, ap. Mullinger 1. 240.

own free choice[32]. In Bateman's own exclusively legal foundation of Trinity Hall (1352), the two legal faculties are kept clearly distinct, provision being made for the maintenance of a certain proportion between them and for transfer, if necessary, from one to the other. The degrees are spoken of as *in jure civili, canonico* or *utroque*, the students as *legistae* or *canonistae*, the subjects as *leges* or *decreta*[33]. The phrase *doctor decretorum* occurs, and, corresponding to it in the other faculty, *doctor juris civilis*, but not, so far as I have been able to find, *doctor legum*[34]. The Canonists were, within a year from their admission as Fellows, to take Holy Orders, and such persons in Orders were allowed an advantage in retaining their Fellowships[35]. There is also a prohibition against any Fellow occupying himself in the duties of an *advocatus* or *procurator*, if by that means he should be hindered from his lectures or studies[36]. This prohibition of practice may throw some light upon the *licentia ad practicandum* to be hereafter noted in the ancient statutes of the University[37]. In the other early College statutes I find either silence on the subject of legal study or but scant provision. Thus at Clare Hall (1359) the ancient statutes, out

[32] Documents 2, p. 228.
[33] ib. pp. 415, 418, 423, 424, 432.
[34] c. 8, Documents 2, p. 424.
[35] cc. 8, 10, ib. 424, 5.
[36] c. 3, ib. 419.
[37] Below, pp. 56, 57.

of the twenty Fellows, allow two *legistae* and one *decretista* or *canonista*, not yet doctors, and the subsequent study of their special subjects seems to have required a special permission from the College[38]. The statutes of King's College (1443) allow two of the Scholars, after attaining the degree of Master of Arts, to apply themselves to the *jus civile*, four to the *jus canonicum*, but the great majority are to follow Philosophy and Theology[39]. Those of Queens' (1475) only permit a Fellow disinclined to proceed in Theology, by the consent of the President and the majority of the Fellows, to turn his attention to either the Canon or the Civil Law[40]. Those of St Catharine's (1475) and Christ's (1506) distinctly confine their Fellows to Arts and Theology[41]. Those of St John's (1516), as given by Fisher, were identical in character with those of Christ's[42]. Those of Jesus College provide that, of the twelve Fellows, one, after attaining the degree of Master of Arts, shall devote himself to the study of the *jus civile*, the remainder to that of Theology[43].

Mr Mullinger remarks on the prominence given

[38] Ancient Statutes of Clare Hall. Documents 2. 132. Cf. Mullinger 1. 252.

[39] Statutes of King's College, Documents 2. 483.

[40] Mullinger 1. 317. The ancient statutes of this College have not been printed.

[41] Documents 3, pp. 82, 187. Mullinger 1. 318, 459.

[42] Mullinger 1. 470.

[43] Statutes of Jesus College, c. 1. Documents 3. 95. Mullinger 1. 322.

to the study of Civil Law both at Oxford and Cambridge in the 14th and early 15th centuries, followed by a reaction in the latter part of the 15th[44]. I think this is rather observable at Oxford than at Cambridge, judging by the recently published Register of the former University and the scantier records of our own. At both Canon Law appears to me to have had the preference, very probably as a preparation for Holy Orders[45]. It was clearly one main object of Bishop Bateman, in framing the statutes of Trinity Hall, to provide Ecclesiastics of training and ability, in place of those who had been carried off by the plague[46].

**Statuta Antiqua.** Under this head I must add certain undated testimonies which are probably in some cases of the very highest antiquity. Prior to the reign of Edward VI. the University was governed solely through bye-laws, or *graces* as they are generally termed, passed by the body as occasion required. These, being entered in the Proctors' books, became the Statutes of the University[47]. They were printed, first by the University in 1783, and afterwards by the Royal Commissioners in 1852, as Statuta Antiqua[48].

Some of these statutes are attributed, on very

[44] Mullinger 1. 244, n. 2 and 319.

[45] See the lists of admissions quoted in Mullinger 1, pp. 319, 320 (notes), and in Peacock, App. A. p. xlix.

[46] See Report of 1852, pp. 178, 181.

[47] Lamb, xxi.

[48] Documents 1. 305—7.

substantial grounds, to a time prior to the year 1276[49]. In these I find recognised lecturers in *jus canonicum* or *jus civile*, and a separate assignment of the two bedells, one to the schools of Theology, the *decreta*, and the *decretales* (in which the disputants are called *theologi* and *decretistae*), one to all the other schools, in which the students are called *artistae*[50]. Most, however, of the *Statuta Antiqua* with which we are concerned are of the 15th or earlier part of the 16th century.

To the former class belongs a writ of Henry V. addressed, in the year 1415, to the bachelors and other scholars *juris canonici et civilis* in Cambridge charging them to attend the ordinary lectures and pay the fees[51]. The neglect of legal study which necessitated this writ (or *Regia Ordinatio* as it is called in the statutes) seems to have been due partly to the less discriminating home patronage, in the case of livings, which resulted from the operation of the Statute of Provisors[52]. The effect of this Statute upon "the Laws Canon and Civil," as well as upon Divinity, is pointed out in a Commons' Petition of the following year[53]. Proposals

[49] By Hare, because, apparently, of their recognition in Hugo de Balsham's decree of that year. Cooper 1. 56, 57.

[50] Statuta Antiqua, cc. 42, 72. Documents 1. 333, 354.

[51] Statuta Antiqua, c. 76. Documents 1. 356. Cooper 1. 157.

[52] Mullinger 1. 284.

[53] "En les leyes Canon et Civill." Ib. and Cooper 1. 158.

were made to remedy the evil (by confining patronage to certain University graduates), but these fell through because the conditions, as to graduation, attached to them by the grantors of the patronage, were not accepted by the Universities. From the terms of these conditions we should conclude that Civil Law, though separable from Canon, was required as a preliminary to the study of the latter: and that both often, though not necessarily, led up to the taking of Orders, with which however Canon Law was more especially connected[54].

These conclusions are confirmed by the numerous and probably later regulations in cc. 72, 78, 82, 94—105, 120—122 of the Statuta Antiqua, on lectures, exercises and degrees in Law[55]. In lecturing, the *decretales* were apparently treated as a more advanced subject than the *decreta*, but the doctor's degree in both is generally spoken of as *decretorum* or *in decretis*[56]. As to distinctive *dress* in the delivery of lectures, a full master *in decretis* was classed with one in theology and arts, while the *jurista* was habited like the *medicus*[57]. *Jurista* was now equivalent to *legista* and both opposed to *canonista*. A good instance of the distinction of *legista* and *canonista* occurs in a statute of 1519 or 1520, where we also read of the fee payable by a

[54] Cooper 1. 159. See too p. 168, and above, p. 47, as to Bishop Bateman's Statutes.

[55] Documents 1. 353, 357, 359, 363—9, 375—7.

[56] See particularly c. 104. Documents 1, p. 367.

[57] C. 147, ib. 387, 8.

*doctor legum* on proceeding to the *doctoratus in jure canonico*[58]. This is fairly conclusive as to the then meaning of *doctor legum*.

**Degrees.** From the same ancient statutes we gather, in various scattered regulations, some idea of the series of *degrees*, as developed in Cambridge; which however is scarcely intelligible without reference to the University system in its growth elsewhere. The subject is too long and intricate to be entered upon here, where I can only give results of the laborious investigations carried on by other authorities so far as they are necessary for the comprehension of what has come down to the present day.

It must be noted first of all that the *titles* which we now regard as little but certificates of education were formerly designations of different degrees of qualification for teaching. This is indicated by the names of Master, Doctor and Professor —the last being originally applied to Masters of Arts and Doctors in all the Faculties (as it is still to Doctors in Theology); by the Regency or public teaching (literally *keeping school*) which was formerly required from a Master or Doctor for some time after his academical career has, with us, practically closed; by the *cursory*, or subsidiary, *lecturing* of the Bachelor—so called because his own *course* was not yet complete; perhaps by the

[58] Statute De dispensationibus &c. Documents 1, pp. 430, 431.

title and insignia of the Baccalaureat, or Baculariat, itself[59].

The fact of *teaching* being the general end or object of a scholar's career seems best to account for the long terms of study and, in particular, for the repeated *oral disputations* or *acts* which formed the qualification for each stage in that career. These repeated acts survived in a rather absurd and meaningless condition down to the middle of the present century: originally, they were serious tests of readiness and knowledge.

The scholar, or regularly matriculated[60] student, after the prescribed time of attendance at lectures, was created a *general sophister* by his college authorities, which authorised him to partake in the disputations of the Schools, to *oppose*, i.e. to start the discussion, on a *quaestio* or thesis for disputation, and subsequently to take the more important part of *reply* (*opponency* and *responsion*), this latter performance being the act *par excellence*. The combatants were hitherto all candidates for the degree. The one, whose fortunes we are now considering, his *responsions* being satisfactorily per-

[59] As to *Professor* see Peacock, p. 34, n. 1. As to *cursory* lectures I have adopted Mr Mullinger's explanation, which seems to me the best (1. 351 and App. E). As to *Bachelor*, the text will indicate, *à qui sait*, my own view on that difficult term: the controversy is too long for this book.

[60] Matriculated, i.e. entered on the *matricula* or list of some Master or Principal. This curious word occurs as early as the Codex Theodosianus, and *matrix*, in the same sense, in Tertullian.

formed, became a candidate for admission *ad respondendum quaestioni*, or Questionist, and had, in that capacity, to satisfy the Proctors, Moderators and other Regent Masters of Arts in the philosophy schools. If successful he was provided with a *supplicat* to the Vice-Chancellor and admitted by him *ad respondendum quaestioni* in the public schools. This ordeal in its turn being passed, the candidate became an *incepting* or inchoate Bachelor, and, as such, had to *determine*, i.e. decide upon, similar *quaestiones* before attaining the full degree. A more serious trial—the Incepting, or Commencement *par excellence*—which was required before admission to the higher degree of Master, took place in the University Church, where the inceptor had similarly to withstand the attacks of the junior *regent* and *non-regent* (= lecturer and past-lecturer), among those who had already attained the Master's degree. After this he was *created* or admitted to the position of Master Regent.

This was the course which is most clearly described to us, of proceeding in Arts. In Law, by a differentiation of terms which originally meant the same thing, the more general expression of Master had disappeared, except in a few early statutes, and the higher degree was that of Doctor. *Mutatis mutandis* the course was a repetition of that which has been described in the case of Arts; the long residence, however, of ten years, with attendance at lectures, being required unless the

candidate had been a Regent (lecturing Master) in Arts, in which case his ten years were reduced to eight. The Arts course, from matriculation to Mastership, required seven years. Both Masters and Doctors were called upon to lecture (*regere*) for a year after their degree, and it was the duty of the Regents, or one of them as representing the body, to hand over to the Inceptor the book and hat which constituted the insignia of his Doctorate. This symbolical investiture with the function of teaching appears to have been the original act of *Creation*, though I doubt whether the term is old.

I have given here a mere sketch of the old proceeding to degrees, so far as the knowledge seems necessary for the understanding of surviving expressions, not considering it necessary to insert any detailed account of the forms observed in the various exercises, &c. Though very interesting as a matter of archaeology, they do not throw any special light upon the studies of the University; and they are now, in the day of written examinations, almost entirely obsolete. Those, however, who are curious in the matter will find full information in Peacock and Mullinger, to the last of whom my sketch is mainly due. On the strange history of the word Tripos, which will scarcely bear abridgement, I must refer to Mr Wordsworth's "Studies," ch. 2.

For the individual admissions to degrees the Proctors' accounts are our earliest official record, and that record is not regularly kept till about the

middle of the 15th century. It is greatly to be regretted that these very interesting MSS. have not yet been printed. To a certain extent I have examined them, with the kind assistance of the Registrary, but I cannot pretend that my examination is exhaustive. Its results, as to law degrees, are briefly these. We find, between the beginning of the record and 1535, one or two instances of the degrees of Bachelor and Doctor taken *in decretis*, none *in legibus*, and about an equal number *in jure civili* and *in jure canonico*, which were obviously the proper styles. A degree in both occurs, but rarely, and not under the abbreviated style *jus utrumque*. We have *legistae* admitted *in jure canonico*—a clear enough indication of that frequent preliminary study of the *leges* to which reference has been above made. We have also one or two cases of persons *admissi ad practicandum in lege*. This use of the singular is extremely uncommon and I cannot exactly determine its meaning, but I am inclined to think that *lex* here means *law generally*. There is a reference to practice in the Statuta Antiqua, of 1456, confining the power of practising within the University, as a *medicus* or *chirurgicus*, to persons who have either lectured in that faculty of right, as full Masters, or been licensed so to lecture[61]. I find no similar provision as to Law. In the Ancient Statute on *licentiati*, they are Bachelors, who have

[61] Statuta Antiqua, c. 91. Documents 1. 362.

obtained the license to incept or commence as Masters or Doctors, but have not yet done so[62].

Incepting itself was, as we have seen, technically, an academical exercise, different either from practice or lecturing. Its accompaniments were moreover a very expensive affair[63]. It would seem as if the *licentiati* whom we find occasionally, but rarely, mentioned in our records, as a sort of half-graduates, were persons who did not encounter the expense of proceeding to the degree for which they had an inchoate qualification. They remained in the condition of being admitted to incept, and were, in that condition, allowed, either as of right or by special licence, to lecture. Some such persons, then, in the legal Faculty, were similarly licensed for *practice*, mainly perhaps in the Chancellor's Court, instead of the more orthodox course of continued study[64].

The Register of the University of Oxford to which I have above referred contains a very full and interesting record of degrees from 1449. The actual words of admission are not given, but modern renderings, e.g. B.C.L.; B. Can. L.; B.L.L. &c. The Keeper of the Archives has, however, kindly consulted the original Register of Congregation for me. I learn from him that the Oxford official styles were nearly identical with our own.

[62] Ib. c. 127. Documents 1. 378. See too Malden, Origin of Universities, p. 58.

[63] Mullinger 1. 357, 8.

[64] See above, p. 47, on the Statutes of Trinity Hall.

*Legum* or in *legibus* occurs little if at all, the regular phrase being *in jure civili* (rarely *cesario*) or *canonico*, sometimes *in jure utroque* instead of in *jure civili et canonico*.

I have also been favoured by the Warden of New College, Oxford, with some of the records of the elections to the Wardenship, where the degrees as well as the names of the electors are given. These seem to bear out the clear distinction of the faculties of Civil and Canon Law and the appropriation of *leges* to the former. The original statutes of New College are, I may remark, almost a copy of those of our Bateman, framed for Trinity Hall, thirty years earlier. In the latter part of the 15th century they were reformed, with the evident intention of checking the excessive devotion to legal study, by reducing the studentships in Civil Law from 10 to 2, and in Canon Law from 10 to 4[65].

**Résumé.** During the first period, then, of University education, Civil and Canon Law were both studied by our scholars, either severally or in the above order, after a course of Arts, and often as a preliminary to Theology. Degrees were conferred in either of the two faculties severally, occasionally in both. *Jus* was apparently a general term applicable to Canon or Civil Law, and perhaps, when used without a distinctive epithet, including the two. *Decreta* and *decretales* were expressions invariably confined to Canon Law. And, as to the

[65] Mullinger 1. 303, 319.

style upon which this historical enquiry was commenced, I think there is little doubt that the strict meaning of *leges*, at least in our legal faculty at Cambridge, was, during the period under consideration, Civil, i.e. Roman Law. The genitive *legum*, which is, as I have shewn, rarely found in our early statutes and registers, sometimes occurs in the "additions" or descriptions of parties to deeds and elsewhere. If, in these cases, it can be proved to have indicated *both* bodies of law, I should suggest, as a matter of Latinity, that it did so as expressing two *sets* of individual *leges* (properly the *leges* and the *decreta*) rather than two *leges*—i.e. that the Doctor was *doctor binarum* not *duarum legum*. But I think it more probable that *legum* always bore in those times, with writers of any accuracy, its proper meaning. It is a question of rather scattered evidence, which can only be solved by noting the individual cases in which *legum doctor* &c. occurs, and finding out, from other sources, in what Faculty the particular degree was actually taken. I have examined a good many instances and have not yet found cause to change the view here maintained. It may be added that the symbol LL.D. (not L.L.D. as it is sometimes strangely written) belongs altogether to a later period.

2. **The Royal Injunctions.** In the year 1535 King Henry VIII. appointed Cromwell Visitor of the University, and promulgated at the same time certain Injunctions, to be observed by all members of that body, amongst which is the following.

"That as the whole realm, as well clergy as laity, had renounced the Pope's right and acknowledged the King to be supreme head of the Church, no one should thereafter publicly read the Canon Law, nor should any degrees in that Law be conferred[66]." Cromwell was also empowered to reform the statutes, ordinances &c. of the University; but nothing was at present done in this direction[67].

In 1540 were established the Royal **Readerships** or Professorships in Divinity, *Civil Law*, Physic, Hebrew and Greek[68]. Their object undoubtedly was, as shewn by Dean Peacock, to supply the deficiencies which began to be found in the public teaching of the Regents, so far as the superior instruction of the students was concerned. The more elementary teaching of the same class, and perhaps partly of the Bachelors, was henceforth to be supplied by the Colleges, as may be gathered from the later College Statutes, such as those of Trinity and St John's[69]. The duties of these Professors were not specially defined until the following reign.

In the second year of **Edward VI.** (1548) a Royal Commission was appointed to visit the University, and to reform its Statutes as well as those of the different Colleges[70]. By this Com-

[66] Cooper 1. 375.

[67] Ib. and Lamb xxii., xxiii.

[68] Cooper 1. 397. *Lector* is the old style of these offices. I first find *regii professores* in the Statute of Elizabeth c. 3. Documents 1. 456.

[69] Peacock 34, 35.

[70] Peacock 36. Cooper 2. 24. Rymer 15, p. 178.

mission were issued, in 1549, the Statutes of Edward VI.[71], which remained in substance little changed, at least as to studies and degrees, down to the present century. Their main provisions relating to Law are as follows :—

The *studiosus legum* is to read the *Institutiones* privately for a year, then to attend the lectures of the *publicus juris praelector* for five years and to keep certain exercises before becoming *baccalaureus juris*. The *legum baccalaureus* is to attend a further course of three years, and after more exercises to be chosen *doctor legum*. The *doctor legum* is, *after* his doctorate, to apply himself to the *leges Angliae*, that he may be able at the end of the solemn disputations in the Senate House to determine what is the *civil law*, what the ecclesiastical, what that of the kingdom of England[72].

It was moreover provided that the proceedings in the court of the Chancellor—into the limits of whose jurisdiction I do not here propose to enter—were to be regulated by the *Civil* Law, together with the privileges and customs of the University, a provision repeated in both the codes of Elizabeth[73].

The above limitations of the study of Law are further explained by the specification of the duties of the *lector publicus* on that subject, who is described also as *jurisconsultus* in the Statutes of

[71] Printed in Lamb, pp. 122—138.

[72] Statuta Edwardi Sexti. Lamb, pp. 126, 7.

[73] Ib. pp. 136, 291, 338. See too Peacock, p. 52.

Edward. His subject is defined as *jus civile*, but he may interpret, as an alternative to the Pandects and Codex, "the ecclesiastical laws of our kingdom which we are about to set forth, and no others[74]". The object of the last words is clearly to exclude the existing Canon Law. The first refer to "a project on which Cranmer had set his heart and which afterwards found expression in the abortive Reformatio Legum Ecclesiasticarum[75]." The subject requires a little notice here, because the subsistence, in some form, of Canon Law, as a matter of practice, might exercise a slight influence upon the actual studies of the University, though that law was not allowed as a substantive subject for public teaching or degrees.

**Reformed Canon Law of England.** It was enacted by Statute 25 Hen. VIII. c. 19, that a review should be had of the Canon Law; and, that till such review should be made, all canons, constitutions, ordinances, and synodals provincial, being then already made and not repugnant to the law of the land or the King's prerogative, should still be used and executed.

And, as no such review has yet been perfected, it would seem that upon this enactment depends the authority of the Canon Law in England, the limitations of which appear upon the whole to be

[74] Jurisconsultus pandectas codicem vel ecclesiastica jura quae nos edituri sumus et non alia praelegat. Ib. p. 124.

[75] Mullinger 2. 111. See also 424.

as follows,—that no canon contrary to the common or Statute Law, or the prerogative royal, is of any validity; that, subject to this condition, the canons made anterior to the parliamentary provision above mentioned, and adopted into our system (for there are some which have had no reception among us), are binding both on clergy and laity; but that canons made since that period, as they have had no sanction from parliament, are, as regards the laity at least, of no force.

Accordingly, with regard to those canons in particular which were enacted by the clergy in convocation under James the First, in the year 1603, and which were never confirmed in parliament, but sanctioned by the King's charter only, it has been solemnly adjudged upon the principles of law and the constitution, that where they are not merely declaratory of the ancient Canon Law, but are introductory of new regulations, they do not bind the laity, whatever regard the clergy may be bound to pay them[76].

It is clearly with reference to this adoption from the old Canon Law that Fuller tells us, "Afterwards (i.e. after 1535) Scholars applied themselves to the *reformed Canon Law*, viz. so much thereof as afterwards was received, as conformable to the King's Prerogative and the municipal law of the land. These many studied to enable themselves for Chancellor's Officials &c. in several Dioceses:

[76] Stephen's Blackstone, Introduction § 3.

yet so that Canon Law did never after stand by itself (as subsisting a distinct Faculty wherein any commenced) but was annexed to Civil Law and the degree denominated from the latter. And although Civilians kept Canon Law in Commendam with their own profession, yet both twisted together are scarce strong enough, especially in our sad days (1655), to draw unto them a liberal livelihood[77]." The "reformed Canon Law," then, spoken of by Fuller was rather a growth of case law and court practice than matter of enactment. There may have been some study but I question whether there was any regular teaching of it, in the Universities.

**College changes.** Various changes in the statutes or practice of the Colleges above noticed, with respect to the now prohibited subject of Canon Law, are doubtless ultimately if not immediately due to the Royal Visitors of 1549[78].

In Peterhouse there were to be, under the amended statutes, instead of two *or four* scholars in the two Faculties, only two *in jure civili*[79]. Under the statutes of Gonville and Caius, as settled by Dr Caius in 1558, the legal Faculty, from which the Custos may now be chosen, is confined to *jus civile*, that law alone being coupled with

[77] History of the University of Cambridge, 6. § 60.

[78] Peacock 36. Mullinger 2. 113.

[79] Documents 2. 69. That these statutes are the ancient ones as amended by Edward's Visitors would appear from their signature on p. 96.

medicine and theology as subjects for study by the Fellows[80].

At Clare Hall, under the Ancient Statutes as amended by the Visitors in 1551, only one of the Fellows was henceforth to apply himself to the study of *leges*[81]. In the Statutes of Queens' College, amended by the Visitors in 1549, the option of Canon Law is taken from the one legal Fellow, who is henceforth to be *jurista civilis*[82]. In those of King's no change appears to have been made, but Canon Law, with other matter of the original regulations, was simply discontinued[83]. In Trinity Hall it is somewhat remarkable to find that no statutory change was made, though perhaps this may be accounted for by the more extensive scheme in connexion with this College to which reference will be made directly. In practice, the Canonistae provided by Bateman became Legistae or Civilistae with the exception of two, who became Presbyters. An Act of Parliament was obtained (probably through the influence of Archbishop Parker) in the first year of Elizabeth, confirming the title of the College to its possessions against "all cavillation." This Act alleges the College to have been founded by Bateman for "the study and knowledge of the *Civil* Law." The change in practice above stated, as to the Canonistae, had apparently taken place by

[80] Ib. pp. 343, 276. For the *date* see p. 306.

[81] Documents 2. 158. For the Visitor's letter p. 184.

[82] Ib. 3. 13, 40. See too Report, 1852 (Evidence), p. 354.

[83] Report, 1852, p. 175.

this time and was considered by Parker and the College as sufficient without any formal enactment[84].

The legal Faculty at the Universities was about this time by no means in a flourishing condition. The abolition of the study of the Canon Law had, combined with other causes, materially affected that of the Civil Law also, so that the lack of competent jurists began to be a source of real inconvenience to the Government, which required such persons for its diplomatic service[85]. Accordingly the Commissioners of 1548 were empowered "to dissolve two or more Colleges in the University, and on their sites or in other fit places, by the King's authority and in his name, to found and erect a College of Civil Law &c.,[86]" a similar scheme being proposed for Oxford, where All Souls was designed to be the law college of the University[87]. Several references to the Cambridge scheme occur both in the Injunctions of Edward's Visitors and in the Ordinations made by himself; from which it would seem that, while the main

[84] Documents 2, p. 440. Report, 1852 (Evidence), p. 334.

[85] Mullinger 2. 126, 127, 133. Phillimore's International Law, 1. lx, lxi.

[86] Cooper 2. 25. See Peacock, App. A. p. l.

[87] Mullinger 2. 133. See Rymer 15. p. 185 for the terms of the Commission. In this (8 May 1549) it may be remarked that *Lex Civilis* is used as equivalent to *Jus Civile*. The latter phrase alone occurs in the commission of 1548.

feature was the amalgamation of Clare with Trinity Hall, Jesus, Bene'ts and Gunvil (*sic*) were also intended to have been united with Clare Hall[88]. The scheme failed, owing to the strenuous opposition of the latter College, backed by Bishop Ridley, and the idea of a new College of Civil Law came to nothing in the end[89].

**Queen Mary.** I may preface, to the reactionary enactments of the following reign, a few slight independent indications—mostly of course in the reign of Mary—of a survival or revival of the (Romish) Canon Law as a subject for study, and even degrees, after the Royal Injunctions. Thus, among the electors to the wardenship of New College I find, in 1551, a Doctor and a Bachelor *utriusque juris*. The former might have taken his degree before 1535, but scarcely the latter. The Oxford Register for 1555 shews two supplicats for the Bachelorship of Canon Law, and in 1556 the degree of Doctor in that Faculty was apparently taken in Cambridge. Peacock indeed mentions three persons as admitted to degrees in Canon Law during the reign of Mary[90]. The curious picture given by Matthew Stokys to the University, of which a copy still hangs in the Registry of Cambridge, appears to me to shew undoubted representations of Canonists' costume, as his book contained

[88] Lamb, pp. 146, 147.

[89] Mullinger 2. 134—7.

[90] Peacock, App. A. p. l. The case of the Doctor I owe to a copy by Mr Mullinger of Baker's MS.

a detailed account of proceeding in Canon Law. Stokys lived to near the close of the 16th century, and his book appears to be finally dated 1574: but he was a great favourer of the old state of things, he was employed in the Registry as early as 1523, and his book may well have been compiled at different times[91].

On the whole, I have little doubt that the Royal Injunctions were substantially obeyed, and that Civil Law, for the 250 years following, was the only subject of law degrees and, except for a few individuals, the only subject of law study at the two Universities.

A letter was sent by Queen Mary shortly after her accession (August 20, 1553) to the Chancellor and Heads of Colleges at Cambridge requiring observance of the Ancient University and College Statutes &c. notwithstanding any Injunctions or new Ordinances made since the death of Henry VIII.[92]. Cardinal Pole, also, as the Pope's Legate, appointed, in 1556, commissioners to visit the University with a view to the more complete re-establishment of the Catholic religion[93]. The curious and interesting account of their visitation by Mere, the Registrary, is printed in Lamb's Documents[94].

A code of Ordinances was drawn up by these Visitors and required by Pole to be observed, in a

[91] See generally Peacock, App. A. i—iv.
[92] Cooper 2. 77. Lamb, p. 165.
[93] Cooper 2. 112.
[94] Lamb, pp. 184—236.

letter addressed to the Vice-Chancellor and Heads of Colleges on the 21st of November, 1557[95]. These Ordinances speak of the Faculty of *jus canonicum* as still existing[96], but they make few innovations in the conditions or forms of graduation, whilst the provisions for the public lectures of the Professors and for the conduct of the public disputations differ in no very essential point from those which had been prescribed by the statutes of Edward VI.[97].

**Queen Elizabeth.** In 1558 Queen Mary died, and in the following year a new Commission was issued by her successor, which abolished the Marian Statutes (Pole's Ordinances) and re-enacted, with very trifling alterations, the Statutes of Edward VI.[98]. Neither the first Code of Elizabeth nor that which followed in 1570 make any substantial change from the Statutes of Edward as to legal studies and degrees. Both retain the promised *ecclesiastica regni nostri jura* as among the subjects of the *lector jurisconsultus*[99]; but the reference to ecclesiastical Law is omitted, in the later Statutes, from the subjects which the *doctor legum* is to study *after* that degree[100].

[95] Lamb, p. 274. The Ordinances are printed *in extenso* pp. 237—273.

[96] Ib. p. 249.

[97] Peacock 40.

[98] Ib. 41.

[99] Lamb, pp. 281, 318.

[100] Ib. 283, 322. See above, note 72.

**Leges and jus in Elizabeth's Statutes.** In these Statutes as in those of Edward, but more clearly, the terms *leges* and *jus* are interchangeable with regard to the students, graduates and lecturers[101]. It is possible that the general expression *jus* may have been used, instead of *ius civile*, in order to include the intended alternative, to part of the course, of English Ecclesiastical Law, in which case *leges* may have been intended to mean the laws of Rome *plus* the Ordinances of the English Church. Another view has, however, been taken which will require some short notice.

The **absence of English law** from University teaching and study had been remarked upon and accounted for so early as the time of Henry the Sixth[102]. The deficiency would scarcely seem to be supplied by the statutory directions for the *subsequent* studies of the *doctores legum*, which there was little or nothing to enforce, or by the alternative study allowed to the *regius lector*, for which no subject was provided. Sir Henry Maine, however, was once of opinion that the expression Professor of *Civil Law*, when coupled with other parts of the Elizabethan Statutes, must be taken to cover the Civil Law of England as well as the Roman Law[103].

With deference to so high an authority—whom I have unhappily now no longer the means of con-

[101] Statuta Elizabethae, cc. 12—14. Lamb, p. 322.

[102] By Fortescue, De laudibus legum Angliae, capp. 47, 48.

[103] Report of 1852 (Evidence), p. 77.

sulting—I cannot accept this view. The direction that the *doctor legum* is, *after* his Doctorate, to apply himself to the *leges Angliae* appears to me to exclude the ordinary Law of England from the *leges* in which the Doctor takes his degree. I think the University authorities recognised the fact of the alternative subject (*ecclesiastica regni nostri jura*) having fallen through, when they continued, in their official record of degrees taken, the style *in jure civili*, not adopting that which might have been suggested to them by the statutes of Elizabeth and Edward, *in jure*. I believe the former style has been almost universally considered to bear its old meaning of Roman Law, both in Cambridge and Oxford, and that any attempt to introduce English Law under cover of *jus civile* has been rather based upon the desirability of adding to the old study than upon a forced interpretation of its name. I shall return, however, to this subject hereafter.

**D.C.L. and LL.D.** Henceforth the official record and the form of admission for Law degrees were *in jure civili* both at Cambridge and Oxford. In Calendars, however, and even in semi-official documents, such as lists of Graduati, an abbreviated style for law degrees has sprung up, varying between LL.B. and LL.D. (*legum baccalaureus* and *doctor*), on the one hand, and B.C.L., D.C.L. (Bachelor and Doctor of Civil Law), on the other. The first instance which I have found of the abbreviation or symbol LL.D. is on the tombstone of Thomas Eden, who was Master of Trinity Hall from 1626 to 1645.

It is regularly used by Dr Richardson, Master of Emmanuel from 1736 to 1775, in his Register of Cambridge degrees, preserved in the University Registry. There, the headings LL.B. &c. run from the top of the first whole column after 1535, instead of the previous *jus canonicum* and *jus civile*.

As between these abbreviations or symbols, no doubt on the whole Cambridge has preferred the Latin and Oxford the English style. But it is clear that the degrees *legum*, *in legibus*, *in jure civili* and "of the Civil Law" all meant originally the same thing. The literal translation, "of laws," must always have been misleading. When or by whom it was first interpreted to mean *legis civilis et legis canonicae* I do not know. Possibly that interpretation might have died a natural death but for the later introduction of English Law into the *curriculum*, when the actual study of a plurality of systems or bodies of law favoured the idea that this had always been the meaning of the style *legum doctor*.

**Practice removed from Universities.** Towards the close of the 16th and beginning of the 17th centuries the study of law at the Universities continued to languish. The Civil Law was recognised in the Chancellor's Court of the Universities themselves and in the Admiralty and Ecclesiastical Courts of the kingdom. But, in the former, it was scarcely matter for a career, while for the proceedings of the latter it was not only, in all

probability, too much alloyed with other materials to make its sole study attractive on the ground of utility, but it was in fact principally studied in another place. In 1587 the Master of Trinity Hall obtained a lease of Mountjoy House in St Paul's Churchyard—afterwards Doctors' Commons—as a residence for Civilians, and all the legal practice of Cambridge was gradually transferred to London[104], taking with it, apparently, all the heart out of legal study at the University. This is not the place to follow the history of the College of Advocates, or, as it is called in its last public appearance, the "College of Doctors of Law exercent in the Ecclesiastical and Admiralty Courts." All direct connexion of this practice with University degrees would appear to be now severed by the Act just quoted[105]: some indirect advantages arising from them have been referred to above (p. 31). In the earlier times of which I am now speaking the Civilian had still a practical career before him: but the fact does not seem to have produced much result in Academical work[106].

**University Representatives.** A slight stimulus was perhaps given to the study of Civil Law at the Universities, on their receiving the privilege of returning each two Members to Parliament, in 1603. For it appears that in the election

[104] Report, 1852 (Evidence), p. 334.
[105] 20 & 21 Vict. c. 77. §§ 116, 117.
[106] Mullinger 2. 423—5.

of these Members a preference was recommended, if not enjoined, for teachers or experts in the Civil or "Imperial" Law[107]. Beyond, however, the return *pro hac vice* of two Doctors of Civil Law, this recommendation had little effect, and the occasional revivals of the study were due rather to the ability and attractive power of a few particular teachers than to any other cause. Among such teachers may be mentioned Albericus Gentilis at Oxford (1587) and **John Cowell** who was appointed Regius Professor at Cambridge in 1594[108]. In the interesting Preface to Cowell's Institutiones Juris Anglicani, addressed to the *legum studiosi* of Trinity Hall, he complains that the students of Civil Law, in spite of the University Statutes[109] which direct them to acquaint themselves with the differences between the foreign laws and their own, are ignorant of and indifferent to the latter, except a few relating to the ecclesiastical forum. The Institutiones, therefore, published in 1605, are an attempt, in the main very able, to arrange the law of the English text-books and statutes under the titles of the educational work of Justinian. The attempt well deserved success, and

[107] Mullinger, 460. Phillimore's International Law 1. lxvii, lxviii. I do not find such a recommendation in the Cambridge Charter quoted by Dyer, Privileges 1. 136. See too Cooper 3. p. 4.

[108] Mullinger 2. 424, 425.

[109] The reference is apparently to the Statutes on the subsequent studies of the *doctor legum*.

might have anticipated the reforms of two centuries later in the University study of Law. Unfortunately it was followed by Cowell's *Interpreter*, which, while designed to exhibit the common elements and principles of Roman and English Law, was so highly disapproved of, on constitutional grounds, by the Commons' House of Parliament and by the bitter enemy of the Civilians, Coke, that the King was obliged to suppress it in a Royal Proclamation[110]. Cowell died in 1610, and with him, it would seem, the attempt to introduce the study of English Law into the University.

In the 17th century the study of Civil Law may have recommended itself, as a matter of general education, to individual great minds such as that of Sir Matthew Hale[111]; but its main function was in laying the foundations of the practically new subject of International Law, now first assuming importance.

For this great work—how largely due to Civil Law is known to any reader of Grotius—Oxford produced two high authorities in Zouch and Jenkins, who were both distinguished Civilians of that University. Cambridge took but little part in the task, and the Institutions of Rutherforth, which somewhat redeem her reputation in the middle of the 18th century, came from a professor of Divinity, not of Law.

[110] Mullinger 2. 499, 500.

[111] Life, p. iii, prefixed to his History of the Common Law. Ed. Runington.

In fact, for 200 years after Cowell's time, Cambridge can claim but little credit from her school of legal study. In 1654 we read of a petition by the University to Parliament for the restoration and encouragement of the Civil Law. Even this was done at the instance of the Civilians in London[112].

The Professors in the **18th century** were little more than College lecturers at Trinity Hall. Dickens was the friend of Baker, the famous Johnian *socius ejectus*, and is the subject of a somewhat inflated eulogium by Zachary Grey, the annotator of Hudibras. Hallifax's Analysis is still sometimes quoted. Jowett was the occasion of Porson's epigram "Little Doctor Jowett &c.[113]" But, on the whole, the less said both of teachers and students the better. The statutory requirements of the University were much disregarded, and the Law degree, becoming a refuge for the destitute, attained that evil reputation from which it has even now scarcely recovered[114].

**1800.** At the beginning of the present century Law degrees were formally taken *in jure civili*, the abbreviated style LL.D. and LL.B. appears in the printed books of Graduati, and the English phrase "of Laws" is used in the University Calendar

[112] Cooper 3. 463.

[113] See Wordsworth's Studies, pp. 140, 1. His version of the epigram is not quite so metrical as the one which I have generally heard.

[114] Peacock, li. note.

almost more frequently than "of Civil Law," but in precisely the same sense. Everything tends to shew that, at this epoch of our legal studies, they were religiously confined to a modicum of Roman Law. The requirements for graduation had dwindled down to 9 terms' residence, with 3 terms' attendance at the Professor's lectures, followed by one Act, for the degree of LL.B.; another Act and 2 Opponencies, with the lapse of 5 years, were required for that of LL.D.[115].

Dr J. W. Geldart, who was appointed Regius Professor of Civil Law in 1813, did his best to reform the Faculty, by instituting, in addition to the customary University requirements, an examination in the subjects of his lectures, which he required the candidates for the Bachelor's degree to pass, before keeping their Act[116]. The lectures were extended in subject, so as to include General Jurisprudence, as illustrated by Roman and English Law, portions of Moral Philosophy and Legal History, occasionally of International Law[117]. The examination appears to have included a paper in Logic[118]. A list of those who passed this examination was drawn up by Dr Geldart, in order of merit, divided into 2, afterwards 3, classes. These were the "Civil Law Classes," which dated from

[115] Report, 1852, p. 33. See Malden, Origin of Universities, p. 130.

[116] Malden, p. 30. University Calendar, 1840.

[117] Report of 1852, p. 33.

[118] This I learn from my predecessor, Professor Abdy.

1815 to 1857, and were published in the University Calendar from 1840. In this semi-official document I have occasionally found the expression "in Law" used for our degrees, which I think may indicate a recognition of the practical enlargement that had taken place in the study. The official style, however, in which the degrees were taken, was still *in jure civili.*

The test imposed by Dr Geldart was confirmed by the University and continued by his successors, who also followed up the good work, begun by him, of extending the narrow limits of Civil Law, as the sole object of Cambridge legal study, to cognate subjects of a more modern application. The literary achievements of Professor (the late Sir Henry) Maine in the field of Jurisprudence are well known. Professor (now Judge) Abdy contributed his valuable edition of Kent's International Law. It was, I believe, in the time of the former that an Ordinance of the University was passed requiring 2nd or 3rd classmen in the Civil Law Classes to have also attended lectures and passed an examination by some Professor other than of Civil Law before they could proceed to their Act.

**English Law.** The treatment of our own national Law by Dr Geldart was, after all, only ancillary to that of the Roman. It is not my business here to shew how the study of English Law was first formally introduced into our Universities by Mr Viner's benefaction at Oxford and inaugurated by the monumental work of Blackstone

in 1758. At Cambridge the subject was not substantively recognised till the institution of the Downing Professor of the Laws of England—a style possibly borrowed from the *leges Angliae* of Edward and Elizabeth—in the year 1800, by Royal Charter[119].

The Statutes of Downing provided for the delivery of 24 lectures by the Professor[120], but the attendance at these lectures lacked the sanction of a University Examination, and depended solely upon their intrinsic merit. This state of things was slightly altered by the University Ordinance referred to above. In the list of "other Professors" the Professor of the Laws of England is included, but with no special preference[120].

**3. The Commission of 1850.** A considerable step had now been made, towards the improvement of legal study in Cambridge, by the action of the Professors of Civil Law and the institution of the Downing Professorship of the Laws of England. But the measures necessary for putting the partially effected reform upon a definite and authoritative footing were due to the Cambridge University Commission of 1850, which reported in 1852. The Commissioners made, with regard to legal study, several most important proposals, due

[119] Documents, 3, p. 160. The Downing Statutes were signed five years later. The first Professor, Edward Christian, had been practically appointed some years before. Wordsworth, p. 145.

[120] Calendar, 1850. See too Report, 1852, p. 33.

to the suggestions, partly of a recent University Syndicate for the revision of the Statutes, and partly of the late Sir Henry Maine, then Regius Professor of Civil Law. Among these was the recommendation that the Faculty of Civil Law should in future be denominated the Faculty of Law, that a Board of Legal Studies should be established analogous to the recently established Board of Mathematical Studies, and that one or two examiners appointed by the Senate should be associated with the Civil Law Professor in the conduct of the Law examinations. The object of the extended title of the Faculty was to indicate a larger and more comprehensive subject, to recognise more authoritatively that combination of the study of English with Roman Law which had already been carried out, to some extent, in the lectures of the Professor, and to bring the lectures of the Downing Professor of the Laws of England into more direct and necessary connexion with degrees in the Faculty of Law[121]. The intention of the Commissioners was also, as is elsewhere stated in their Report, to include International as well as English and Civil Law. Finally, after insisting upon the desirability, where a student is designed for a learned profession, that the foundations of his professional education should be laid at the University, they conclude:—

"With a view to attain this end, we are of opinion that the instruction provided by the Faculty

[121] Report, 1852, p. 34.

of Law should not be confined to the laws of this country or to any particular code, but that, in addition to the study of English, Civil and International Law, it should embrace an examination of the principles on which existing systems of law are founded, and that it should be extended to an investigation of the principles on which all laws ought to be founded; in other words, that the study of General Jurisprudence, and of the Science of Legislation, and of Morals in connexion therewith, ought to be encouraged. To carry out this object it might probably be deemed expedient to establish an additional Professorship of General Jurisprudence[122]."

In an earlier part of the same Report an approval was also expressed of suggestions by the Syndicate and the Regius Professor for the reduction of the amount of exercises required and of compulsory attendance at the lectures of the latter, the courses thus dispensed with being transferred to the lecture rooms of the Professors of English Law and Moral Philosophy[123].

In accordance with this Report the **Board of Legal Studies** was instituted (in 1854), which continues to regulate the legal study of the University, under the new style of the Special Board for Law—the introduction of the new style being due to the subsequent establishment of a General Board of Studies.

At the same time a scheme of examination was drawn up to be passed by all Candidates for the

[122] Ib. p. 91. [123] p. 35.

degree of *Laws*, after passing the Previous examination[124] and keeping 8 terms residence. The Grace refers however to the Faculty as *facultas juris*.

The examiners were to be the Regius Professor of *Laws*, with three other members of the Senate: the subjects, the Roman Civil Law, the Constitutional and General Law of England, International Law, and General Jurisprudence[125].

I am not clear as to the meaning of Roman *Civil* Law, the two adjectives being generally convertible. If the second is not mere surplusage, the intention would seem to be to exclude either Imperial Criminal or Pontifical Canon Law. As the former subject is to a certain extent included in Justinian's Institutes, which are retained in almost all Examination Schedules, I am rather inclined to take the latter view. But the expression "Roman Law" defined, as in the present scheme, by a specification of the several subjects actually intended, is decidedly preferable.

The examination now under consideration is generally spoken of as the Law Tripos, from its Honour Classes, which were first published in 1858. It should, however, bear the alternative title of Bachelor of Laws examination, as it conferred that degree upon a fourth class, who were not Honour men.

[124] It is unnecessary to enter into the history of this examination. It was part of the system in existence before the Report of 1852 (p. 20) and has undergone many subsequent alterations.

[125] Ordinationes, 1863, pp. 50, 51.

I believe that some alterations were made, in 1854, as to the exercises and attendance at lectures required from candidates for degrees in Law. But it was in 1858 that the regulations now in force for the Act in Law were finally drawn up, one Act being required from a candidate for Honours in the examination for the degree of Bachelor of *Law*, and one subsequent Act for the degree of Doctor. If not a candidate for Honours, the intending Bachelor was merely to undergo a *viva voce* examination in addition to the written one[126].

In 1854 was also instituted or at least recognised, so far as I can discover, for the first time, the degree of Master of *Laws*, which was taken by a Bachelor in the Faculty three years from the date of his first degree. To B.A.'s and M.A.'s who had not passed the Law examination it formed an intermediate step to the degree of Doctor. The examination for the Master's degree, to a previous B.A. or M.A., was to be the same as that of candidates for the degree of Bachelor of *Laws*[127].

**Style.** The earlier Ordinances of this period, which I have endeavoured always to quote literally, favour the style "of Laws" for the degrees taken under the reformed system, and indeed for the Regius Professor also. In a year or two, however, (e.g. 1858) the style "of Law" came in for the degrees, and the Professor begins to resume his proper official designation, or that of Professor of

[126] Ordinationes, 1863, pp. 52, 53.

[127] Ib. p. 51.

the Faculty. The abbreviations or symbols LL.B., LL.D., and afterwards LL.M., are retained throughout. The formal admissions to degrees were, by an Ordinance of 1858, thenceforward to be taken *in jure*, which probably accounts for the change of style just noted. But the plural "of Laws" occurs again in the regulations for the Law and History Tripos, as in those of the second Law Tripos which succeeded.

In the various regulations where the Regius Professor bears the style "of Laws" it may perhaps be maintained that the University intended to imply a general presidency over the various branches of law now studied at the University. But it is also maintainable that "of Laws" was, in this case, merely equivalent to "of Civil Law" which is the subject upon which the Professor is appointed to lecture by the Crown. There can be no doubt that this last is the style which ought always to be employed in his case.

In the Calendars the confusion is hopeless. Besides all the above-mentioned forms, I find an ephemeral monstrosity, L.B., L.M. and L.D.: also, but rarely, "in the Civil Law" with its Oxford abbreviation.

**Whewell Professor.** In 1867 was founded the Whewell Professorship of International Law, to which Mr (now Sir William) Vernon Harcourt was appointed in 1869. The effect of this institution, and of the Scholarships which form part of the same munificent benefaction, is no doubt to stimu-

late a considerable interest in the important subject of International Law. The lectures required from the Professor, are, it may be considered, too few for his teaching to form permanently a substantive part of the instruction of the Undergraduate Student. But their part will depend upon the individual Professor.

**Law and History.** In 1868 was founded the short-lived Law and History Tripos. This was more strictly an Honour examination. It conferred upon successful candidates the degree of Bachelor of Arts or of *Laws* at their option, without any further exercise. It also reduced the requirements upon B.A. candidates for the degree of Master of *Laws* to that of satisfying the examiners in the papers on Gaius and Blackstone and paying a fee of £3. 3*s*. 0*d*. to the Regius Professor of *Laws*[128].

The subject of Law was thus for a time combined with that of Modern History; but, the combination not being found to work satisfactorily, the Law Tripos was reconstituted in 1873, the Historical Tripos being at the same time started in separate existence[129].

The subjects for this **second Law Tripos** examination, from 1873 to the recent reform, were as follows:—

1. General and Comparative Jurisprudence.
2. Passages for Translation, taken from the

[128] Ordinationes, 1871, pp. 52—55.

[129] Ib. 1874, pp. 64, 66.

sources of Roman Law, particularly from Gaius, Ulpian, Justinian, and some specified portion of the Digest.

3. Questions on Roman Law and its history.
4. The English Law of Personal Property.
5. The English Law of Real Property.
6. English Criminal Law.
7. The Legal and Constitutional History of England.
8. Public International Law.
9. Essays or Problems on the subjects of Examination.

This examination entitled candidates deserving of Honours to the degree of Bachelor of Arts or "*Laws*," at their option, and those who elected the former degree, as well as the Bachelors of Laws, to the further degree of Master of Laws, at the proper time, without further examination. The papers qualifying a B.A., who had not obtained Honours in the Law Tripos, to proceed to the degree of Master of Laws, were now to be those numbered 2, 3 and 6. These papers were altered to 4, 5 and 6 (three English Law papers) in 1875[130]. The fee payable remained the same.

The style reverted to "of Law" in the revised regulations specially assigned to the Law Tripos by a Grace of 1879, the plural being nevertheless retained in those which were made common with the Classical and other Triposes. A rule,

[130] Ordinationes, 1877, p. 52.

which had grown up in practice, at the same time received statutory sanction, by which the student who had obtained Honours in the Law Tripos became entitled to admission to the degree of Bachelor of Laws either instead of, or *in addition to*, that of Bachelor of Arts[131]. This somewhat indefensible rule still remains.

**Act for Doctor's degree.** In this sole remnant, under a very modified form, of the old disputations, a slight change has been introduced or at least confirmed by the present Regius Professor. At first the Act was generally, though not perhaps invariably, upon some subject of Roman Law. This was the natural and almost inevitable arrangement before the reforms of 1854—8. As, however, the field of study, in which the degree of Bachelor is taken, has been extended in accordance with the recommendations of the Commissioners, it seemed reasonable that a similar extension should be made in the study available for the Doctor's Act.

There is certainly a great improvement in the exercises, under the new practice. In the wide choice of subjects now open to the candidate it must go hard but he will find some one to excite an interest which was often lacking in the invariable Roman Law. That important branch of legal education is not on this account neglected in the choice of Doctors' theses; and, when the choice is made therefrom, it will now fall upon some matter

[131] Ordinances, 1885, pp. 65, 86.

of independent research rather than on some antiquated rule or hackneyed maxim.

**The new University Statutes of 1882.** The principal change affecting the study of Law was the creation of a body of teachers called Readers, whose duties are defined by Ch. XI. of Statute B. In 1884 the appointment of a Reader in English Law was authorised by Grace, and an annual stipend of £300 attached to the office[132]. A similar appointment had been, a short time previously, authorised in the case of Indian Law[133]. I have given in Ch. I. my reasons for not entering into the latter subject, in treating of the general legal studies of the University.

In these Statutes, and the Ordinances based upon them, the degrees and the formulae of admission, with which we are now concerned, are described and worded as of or in *Law*.

Last comes the **Reform of 1887,** the results of which have been described in Chapter I. Apart from the division of the Law Tripos examination—which has been ultimately forced by experience upon a body originally averse to the measure—this scheme is virtually a carrying out of the design of the Commissioners of 1850. The only subject mentioned by them which is not expressly included in the new schedules is the Science of Legislation. A sharp line of demarcation has been drawn by

[132] Cambridge University Reporter, 1883, 4. pp. 793, 905.

[133] ib. pp. 203, 272.

Austin, with perfect logical propriety, between this subject and that of his own Lectures. But it was evidently the view of the Commissioners that the Science of Legislation might be brought under the head of General Jurisprudence, from the words in which they recommended the foundation of an additional Professorship in the latter subject. Whether such a foundation can be hoped for at present is somewhat doubtful, in the depressed state of University finances: but I should personally be of opinion that it is competent for the Board, with due notice, to introduce the Science of Legislation under the terms of their present schedule.

With regard to the second or more practical part of the present Scheme of education, it may be remarked that the recognition of English Law has been developed and systematised, but not carried beyond the intention of the Commissioners or the fair limits of a liberal as distinguished from a purely technical training. By them the importance of the legal Faculty in Cambridge was particularly recognised as forming a bond of connexion between the University and the members of the English Bar. That connexion has been more closely united by the advantages accorded, on the part of the Council of Legal Education, to University Law Graduates; which advantages impose a corresponding obligation upon the Universities. A more special recognition of the vast improvement, from a practical point of view, in our Law teaching, might by this time be expected also from the Incorporated

Law Society. The profession of Solicitor is now an object of preparation to quite as many of our Students as that of Barrister; and the importance of a scientific or liberal education to the former branch of practitioners has been fully admitted by all who have interested themselves in the subject.

**Modern style of Cambridge Law Degrees.** I shall conclude with a subject, not perhaps of very great intrinsic importance, but which did in fact set me on a historical enquiry very interesting to myself and, I hope, partly so to my readers.

By the regulations and formulae now in use, legal degrees are held, and candidates admitted to them, *in jure*, in Law—the most general and all embracing expression. Were the whole matter *res integra* there would be little hesitation in adopting, as an abbreviation or symbol, the style J.D.; J.M.; J.B. (for *Juris Doctor* &c.) or D.L.; M.L.; B.L. (for Doctor of Law &c.), as the English or Latin style was required.

There is no question that the proper English style, in full, is "of Law," as that style is now uniformly employed throughout the Statutes and Ordinances. But against the above-mentioned abbreviations must be set the chance of confusion with D.L. for Deputy Lieutenant and M.L. for *Medicinae Licentiatus*, the general objection to a change of style, and a particular reluctance to abandon the well-known letters LL.D. (together of course with LL.M. and LL.B.), which have generally been considered distinctive of a Cambridge degree.

**LL.D.** To give a brief *résumé* of what has been already said on *legum* in the style of degrees:—*Legum* down to 1535, as afterwards elsewhere than in England, means, with any accurate authority, of Roman or Civil as distinguished from Canon Law, degrees being taken in either or both: *Legum*, in England from 1535 to 1854, similarly means of Roman or Civil Law, as the only subject of legal degrees, and the only subject of legal education except the matter which was gradually introduced, ancillary to that subject, by University Professors: *Legum*, as a style of degrees in Cambridge after 1854, or rather 1858, has been used in a perfectly lax and general sense.

Roman, English and International Law, as well as Jurisprudence, have for some time been studied together for the Law Tripos, which conferred the degree of Bachelor: English Law alone, of late, in the LL.M. examination, conferred the degree of Master; while for the Doctor's Act the practice has been adopted of accepting a thesis from any of the four subjects above mentioned. Under this practice, coupled with the Tripos regulations of 1887 (which allow the degrees of Bachelor and Master for the English half of the Tripos *plus* any previous Honour degree), it will be possible to attain the degree of Doctor without any knowledge of the Law which I believe the style of LL.D. to have originally designated.

Under these circumstances, the retention of that style can only be defended on the view, which

was that of the late Sir Henry Maine, that *legum* has come to mean, in our modern parlance, *of law generally*: that the plural *leges* is in fact equivalent to the singular *jus*, in which we now take our degrees, and will so cover all the Law which may be studied at the University, or any part of it.

If *legum* means, or ever did mean, with any accurate writer, of *bodies* of Law, the plural is so far justified by the regulations for the Law Tripos that several systems or bodies of Law are now studied for that examination, though one only of these (the so-called *lex civilis*) was comprised in the two systems originally indicated, on this hypothesis, by *leges*. But this popular interpretation of *leges* has been shewn to be in any case very improbable, and the improbability is certainly heightened, in the case of Cambridge, by the authoritative retention of the style, shortly after the prohibition of one of these supposed *leges* as a branch of study.

On the whole then, in retaining, as most people seem to wish to retain, the old Cambridge style of *legum doctor*, at least in its symbolic or abbreviated form, we must understand, by *leges*, Law generally, i.e. the *jus* in which we take our degrees. But we must be careful to translate the style idiomatically Doctor of Law, rather than literally Doctor of Laws, because the latter rendering is either unintelligible or keeps alive the incorrect view that *leges* once meant *lex civilis et lex canonica*.

# CHAPTER III.

## RULES AND REGULATIONS.

### I. THE LAW TRIPOS.

1. THE Examination for the Law Tripos shall consist of two parts. The First Part shall consist of seven papers on the following subjects:—

Paper 1. General Jurisprudence.

Paper 2. History and General Principles of Roman Law.

Papers 3 and 4. The Institutes of Gaius and Justinian, with a selected portion of the Digest.

Paper 5. English Constitutional Law and History.

Paper 6. Public International Law.

Paper 7. Essays and Problems.

The Second Part shall consist of six papers on the following subjects:—

Papers 1 and 2. The English Law of Real and Personal Property.

Papers 3 and 4. The English Law of Contract and Tort.

} With the Equitable principles applicable to these subjects.

Paper 5. English Criminal Law and Procedure, and Evidence.

Paper 6. Essays.

The order of the papers in each part of the examination shall be determined by the examiners. The problems and essays in the first part of the examination shall have reference to the subjects set for that part. The essays in the second part shall have reference partly to the subjects of the first, partly to those of the second part.

2. The Board of Legal Studies shall from time to time publish a list of books recommended to candidates for examination, and may from time to time limit any or all of the above-mentioned subjects to a department or departments of the same; provided that public notice of such limitation shall be given in the Lent Term of the year next but one preceding that in which the examination in the subjects so limited is to take place[1].

3. A Student may be a candidate for honours in the first part of the examination for the Law Tripos if at the time of such examination he be in his fifth term at least, having previously kept four terms: provided that nine complete terms shall not have passed after the first of the said four terms unless the candidate shall have previously obtained honours in one of the Honours examinations of the University, in which case he may be a candidate provided that twelve complete terms shall not have passed after the first of the said four terms.

[1] For list and notices see pp. 121, 122.

4. A Student may be a candidate for honours in the second part of the examination for the Law Tripos if at the time of such examination he be in his eighth term at least, having previously kept seven terms: provided that twelve complete terms shall not have passed after the first of the said seven terms: provided also that he shall have already obtained honours in the first part of such examination or in some other of the Honours examinations of the University.

5. No Student of a different standing to that defined in the foregoing Regulations shall be allowed to be a candidate for honours in either part of the examination for the Law Tripos unless he shall have obtained permission from the Council of the Senate.

6. A Student who shall obtain honours in both parts of the examination for the Law Tripos, or who having already obtained honours in any of the Honours examinations of the University other than the Law Tripos shall obtain honours in either part of the examination for the Law Tripos, shall be entitled to the degrees of Bachelor of Arts and Bachelor of Law and may take either or both of those degrees, and no further examination shall be required of him on proceeding to the degree of Master of Law.

7. Except as is otherwise provided by these Regulations, a Student who passes the first part of the examination for the Law Tripos shall not thereby become entitled to any degree; but a Student

who shall obtain honours in such first part shall be excused the General examination for the Ordinary B.A. degree. The examiners may also declare candidates for such first part to have acquitted themselves so as to deserve to be excused the General examination though they have not deserved honours.

8. No Student who has presented himself as a candidate for honours in either part of the examination for the Law Tripos shall again present himself as a candidate for honours in the same part of the examination.

9. The names of students who shall obtain honours in the first part of the examination for the Law Tripos shall be arranged in three classes in order of merit; and the names of students who shall obtain honours in the second part of such examination shall be arranged in three classes in order of merit.

10. The examination for the Law Tripos (first part) shall begin upon the Monday after the last Sunday but two in May, and continue for four days, the hours of attendance being on the first three days from 9 to 12 in the morning and from 1.30 to 4.30 in the afternoon, and on the fourth day from 9 to 12 in the morning.

11. The examination for the Law Tripos (second part) shall begin upon the Thursday after the last Sunday in May, and shall continue for three days, the hours of attendance being from 9 to 12 in the morning and from 1.30 to 4.30 in the afternoon.

12. If Ascension Day fall upon any of the days fixed for either part of the examination, there shall be no examination on Ascension Day, but that part of the examination shall begin one day earlier (exclusive of Sunday) than is here provided.

13. The class lists for the first part of the Law Tripos shall be published not later than 9 A.M. on the day next before the beginning of the second part, and the class list for the second part shall be published not later than 9 A.M. on the Friday after the second Sunday in June.

14. The examination for the Law Tripos shall be conducted by five examiners, who shall be nominated by the Board of Legal Studies and elected by Grace before the Division of Michaelmas Term in every year.

15. Each of the examiners shall receive £30 from the University Chest.

## Special Regulation for Indian Civil Service Students.

For the purposes of the foregoing Regulations, Students who have passed the Final examination for the Civil Service of India shall be treated as though they had obtained honours in one of the Honours examinations of the University. In the class-lists the names of such Students shall, unless they present themselves for both parts of the Tripos, be distinguished by some note indicating that they

are Indian Civil Service Students taking one part only of the Tripos.

### Regulations for Bachelors and Masters of Arts proceeding to the Degrees of Bachelor and Master of Law.

1. On proceeding to the Degree of Master of Law no examination shall be required of a Bachelor of Law or of a Bachelor or Master of Arts who under the foregoing Regulations for the Law Tripos has become entitled to proceed to the degree of Bachelor of Law; but in every other case any graduate who desires to proceed to the degree of Bachelor or of Master of Law shall be required to satisfy the examiners for the Law Tripos examination in both parts, or (according to the following provisions) in one part, of that examination by attaining therein the minimum standard for Honours, and to pay the fee heretofore payable in the like case[2].

If he shall have obtained honours in any of the Honours examinations of the University other than the first part of the Law Tripos, he shall so satisfy the examiners in the first or, at his option, the second part.

[2] Three weeks' notice of entry for this examination should be sent by the candidate to his College Praelector, or, in the case of Non-Collegiates, to the Censor. The examination fee is £3. 3s. and should be sent, before the examination is concluded, to the Regius Professor of Civil Law, Cambridge.

If he shall have obtained honours in the first part of the Law Tripos but not in any other of the Honours examinations, he shall so satisfy the examiners in the second part.

If he shall not have obtained honours in any of the Honours examinations, he shall so satisfy the examiners in both parts, and may present himself for the two parts in the same year or in different years.

2. The above Regulation as to persons proceeding to the degrees of Bachelor and Master of Law shall come into force immediately after the publication of the class list for the Law Tripos of 1889; but every person who shall at that time be entitled under the now existing Regulations to proceed to the degree of Bachelor or Master of Law without further examination shall continue to be so entitled notwithstanding these Regulations.

## II. CHANCELLOR'S MEDAL FOR THE ENCOURAGEMENT OF THE STUDY OF ENGLISH LAW.

1. The prize shall be awarded, by the examiners for the Law Tripos, to the candidate who shall be most distinguished in the second part of the examination for the Law Tripos so far as the same relates to English Law. Provided that such prize shall not necessarily be awarded in each year but only in cases of exceptional merit.

2. The examination for the prize shall be open to all candidates who have presented themselves for the second part of the Law Tripos of the

current year; to all students who, having passed the examinations entitling to admission to the title of Bachelor designate in Arts or Law, are not of sufficient standing to be created Masters of Arts or Law; to all Students who, having taken the degree of Bachelor of Arts *jure natalium*, are not of sufficient standing to be created Masters of Arts; and to all Students in Medicine of not more than seven years' standing since matriculation, who shall have passed the examinations for the degree of Bachelor of Medicine.

3. No person, who has gained the prize, shall be admitted as a candidate for it a second time.

### III. GEORGE LONG PRIZE.

1. The prize shall consist of the yearly interest of the capital sum (of £500), and shall be given to that candidate for the first part of the Law Tripos who shall be most distinguished in Roman Law and Jurisprudence: provided that such prize shall not necessarily be awarded in each year, but only in cases of exceptional merit.

2. Whenever such prize shall not be awarded, the amount of the prize for that occasion shall be added to the capital sum.

### IV. ADMISSION TO THE DEGREES OF BACHELOR, MASTER AND DOCTOR OF LAW.

Persons entitled under the above Regulations to the degree of Bachelor of Law, or Arts[3], are

[3] See Reg. 6 for the Law Tripos, above, p. 95.

admitted in person to the degree of Bachelor Designate after payment of the following fees :—

To their college Bursar a fee varying between £2 and £5. 9*s.* 6*d.*[4]; and to the Senior Proctor, for the University Chest, £7 on days of general admission[5], £10. 10*s.* at other times.

The Inauguration of Bachelors designate, i.e. the perfecting of their degree, takes place without attendance or further fee at the end of the Michaelmas Term.

Persons entitled under the above Regulations to proceed to the degree of Master of Law are admitted, in person[6], to incept in Law at the end of three years from their Inauguration as Bachelors, whether of Law or Arts (see p. 95, Reg. 6), and after payment of the following fees :—

To their College a fee varying between £3 and £9. 1*s.*[4] To the University Chest £12.

Inceptors are created and so become complete Masters of Law, without attendance or further fee, on the Tuesday (Commencement) immediately preceding the last day of the Easter Term (June 24).

[4] See table on p. 104.

[5] Days of general admission to this degree are the Tuesday after the third Sunday in June, and the Thursday before the last day of Michaelmas term (December 19). And these are now only days of general admission for candidates who have passed the Tripos immediately preceding.

[6] A *graduate* may be admitted to a higher degree, in his absence, by obtaining a special Grace for the purpose and paying £5 in addition to the ordinary fee.

A Master of Law may be admitted to the title of Doctor Designate at the end of five years from his creation as Master, provided he have kept an Act, to the satisfaction of the Regius Professor or his deputy, at some time after such creation. The Regulations for the Act are as follows :—

The Regius Professor of the Faculty shall assign the day and the hour when the Exercise for the degree of Doctor of Law shall be kept.

The Professor, or some graduate of the Faculty, who is a member of the Senate, deputed by him, shall preside over the exercise.

The candidate shall read a thesis composed in English by himself on some subject approved by the Professor ; the Professor, or graduate presiding, shall bring forward arguments or objections in English for the candidate to answer, and shall examine him in English *viva voce* as well on questions connected with his thesis as on other subjects in the Faculty of a more general nature; the exercise being made to continue at least one hour.

Public notice of the Act shall be given by fixing on the door of the University Schools, eight days at least before the assigned time, a written paper specifying the name and College of the candidate, the day and hour appointed for the exercise, and the subject of the thesis; copies of the notice shall be delivered also, at the same time, to the Vice-Chancellor and to the Professor.

The power of proceeding to the degree of Doctor of Law under the conditions prescribed by

the 13th chapter of the Statutes published in the 12th year of Elizabeth, is also reserved to Bachelors of Law and Masters of Arts who were admitted to their degree before July 31, 1858. These conditions have become confined by custom to the keeping of a single Act, in the manner above described.

For the candidate's thesis, subjects either in English, Roman, or International Law, or in Jurisprudence, are accepted by the present Regius Professor. But a subject is preferred with which the candidate has some personal acquaintance, either from practice or special research. A copy of the thesis or the original (in the latter case to be returned to the candidate) is sent to the Regius Professor or presiding graduate a week before the Act is to be kept (see above p. 23).

The three notices above required are in practice sent to the University Marshal, New Square, Cambridge, in the following form :—

"An act for the degree of LL.D. will be kept by Mr , of College, in the Arts School, on the day of at M.

Subject :— ."

Candidates for the degree of Doctor of Law pay a fee, on keeping their Act, of £10. 10*s.* to the Regius Professor or his deputy, on admission, of £20 to the University Chest (Senior Proctor), and a sum varying from £5 to £17. 10*s.* to their College Bursar (see table, p. 104).

The admission to the title of Doctor Designate is personal. A candidate may, after obtaining a Grace for that purpose, be admitted by proxy; but pays, in that case, £5 in addition to the ordinary University fee. Doctors Designate are created and become complete Doctors of Law, without anything further on their part, on the Commencement Tuesday after their admission as Designates.

TABLE OF COLLEGE FEES FOR LAW DEGREES.

| Colleges. | LL.B. | | | LL.M. | | | LL.D. | | |
|---|---|---|---|---|---|---|---|---|---|
| | £. | s. | d. | £. | s. | d. | £. | s. | d. |
| St Peter's | 5 | 0 | 0 | [9]6 | 10 | 0 | 11 | 16 | 0 |
| Clare | 5 | 0 | 0 | 7 | 0 | 0 | 10 | 0 | 0 |
| Pembroke | 4 | 1 | 0 | [10]9 | 1 | 0 | 9 | 2 | 0 |
| Gonville and Caius | 4 | 11 | 0 | 8 | 1 | 0 | 7 | 1 | 0 |
| [7]Trinity Hall | 3 | 0 | 0 | 7 | 0 | 0 | 10 | 0 | 0 |
| Corpus Christi | 5 | 1 | 0 | 8 | 1 | 0 | 12 | 12 | 6 |
| [8]King's | 4 | 0 | 0 | 8 | 0 | 0 | 12 | 0 | 0 |
| Queens' | 5 | 9 | 6 | 7 | 9 | 6 | 12 | 15 | 6 |
| St Catharine's | 4 | 2 | 0 | 7 | 2 | 0 | 16 | 4 | 0 |
| Jesus | 4 | 2 | 0 | 7 | 3 | 0 | 11 | 7 | 8 |
| Christ's | 4 | 0 | 0 | 6 | 0 | 0 | 12 | 0 | 0 |
| St John's | 5 | 1 | 0 | 7 | 1 | 0 | 12 | 2 | 0 |
| Magdalene | 4 | 0 | 0 | [11]6 | 0 | 0 | 10 | 0 | 0 |
| Trinity | 5 | 0 | 0 | 7 | 0 | 0 | 17 | 10 | 0 |
| Emmanuel | 4 | 10 | 0 | [11]7 | 0 | 0 | 10 | 0 | 0 |
| Sidney | [12]4 | 0 | 0 | [12]5 | 0 | 0 | 10 | 0 | 0 |
| Downing | 4 | 4 | 0 | 4 | 4 | 0 | 8 | 8 | 0 |
| Selwyn | 2 | 0 | 0 | 3 | 0 | 0 | 5 | 0 | 0 |
| Cavendish | 1 | 0 | 0 | 2 | 0 | 0 | 3 | 0 | 0 |

[7] Also a fee of £1. 1*s.* to the Praelector.

[8] £1 additional to the Praelector from each person taking a degree.

[9] Prius M.A. £1.

[10] Prius M.A. £3. 1*s.*

[11] Prius M.A. £3.

[12] Prius B.A. £2.

[13] Prius M.A. £2.

## V. SPECIAL EXAMINATION IN LAW.

1. The examination shall begin on the Thursday (or, if that day be Ascension Day, Wednesday) next but two before the general admission to the B.A. degree in the Easter Term.

2. The examination shall consist of four papers, and shall be on the three following subjects:

i. English Criminal Law.

ii. Some branch of English Constitutional Law.

iii. The English Law of Contract or of Tort or some branch of the English Law of Property.

One paper shall be allotted to each of these subjects and the fourth shall be an elementary essay and problem paper on the three subjects.

The Special Board for Law shall in every year before the end of the Easter Term publish a notice[14], declaring what branches of law coming under the headings (ii) and (iii) are to be the subjects of examination in the year next but one following. It also shall be the duty of the Board from time to time to recommend books in which the subjects of examination may be studied.

Selected Candidates for and members of the Indian Civil Service shall be allowed the alternative of being examined in the Indian Penal Code and the Indian Contract Act instead of in subjects (i) and (iii).

3. The examination shall be conducted entirely by printed papers.

[14] For notices see pp. 121, 122.

4. There shall be a meeting of the examiners previous to the examination, when the papers set by each examiner shall be submitted for approval.

5. The examiners shall publish a list of those who pass, arranging the names in three classes, the names in the first class being placed in order of merit, and those in the second and third classes alphabetically.

6. The class list shall be published in the Senate-House at the latest at 10 A.M. on the Thursday before the general B.A. admission in the Easter Term, at which general admission all persons whose names are contained in the Class List may be admitted to the title of Bachelor designate of Arts.

7. The examination shall be conducted by two examiners nominated by the Board of examinations and appointed by the Senate in the preceding Lent Term, and each examiner shall receive Fifteen Pounds from the University Chest.

8. There shall be a second examination, beginning on Nov. 30 in each year (unless that day fall on a Sunday, in which case it shall begin on Nov. 29), which examination shall be conducted by the same examiners and in a manner similar to that held in the Easter Term.

9. One of the Pro-Proctors and one at least of the examiners shall be present during every part of the examination, both in the Easter and in the Michaelmas Term.

10. One of the Proctors' or Pro-Proctors' men

shall be in attendance during every part of the examination, both in the Easter and in the Michaelmas Term.

## VI. DR WHEWELL'S SCHOLARSHIPS OF INTERNATIONAL LAW.

The following are the Regulations most important to candidates.

1. There shall be eight Scholars in the University of Cambridge, to be called Dr Whewell's Scholars of International Law, of whom two at least shall be chosen every year at some time before the commencement of Michaelmas Term: provided that if in any year the Electors shall declare that there is no candidate properly qualified for any or any one of the vacant Scholarships, then such Scholarships or Scholarship shall remain vacant till the next ensuing election.

2. The Scholars shall be chosen from time to time by the Vice-Chancellor, the Master of Trinity College, the Regius Professor of Civil Law, the Professor of Moral Philosophy, the Downing Professor of the Laws of England, and the Professor of Political Economy.

3. The Election of the Scholars shall be by a majority of the Electors above mentioned: and in case of an equality of votes, the Master of Trinity College shall have a double or casting vote.

4. Four of the Scholars shall receive an annual payment of £100, and four an annual payment of £50: provided that if the clear surplus rents and

other income appropriated for the endowment of Dr Whewell's Scholarships shall in any year fall short of the amount required for such payments, then for that year the payments to the said several Scholars shall be proportionately diminished, yet so that the whole clear surplus rents and income aforesaid shall be appropriated to the said Scholars in every such year.

5. Of the two Scholars elected each year, one shall receive an annual payment of £100 or less, as the case may be, and one an annual payment of £50 or less, in like manner.

6. Each Scholar shall retain his Scholarship for four years from the 1st day of October next ensuing after his election, on condition that he keep by residence every University Term of that time, except in so far as he may have received express permission of non-residence from the Master and Seniors of Trinity College, or may hold a diplomatic or consular appointment under the Crown.

10. The Scholarships shall be open to any person under the age of twenty-five, who shall have produced satisfactory evidence to the Master and Seniors of Trinity College, that he is of good moral character: provided that no one who has once gained a Scholarship shall be allowed to be a candidate a second time.

11. Every person elected to a Scholarship, if not already a member of some College in Cambridge, shall thereupon become a member of Trinity College, and shall receive no emoluments from his

Scholarship until he has commenced residence in the University.

12. Any person elected to a Scholarship, and being already a member of some other College in the University of Cambridge, shall be entitled upon application, but shall not be compelled, to become a member of Trinity College.

13. Any Scholar shall be entitled to one set of chambers in one or other of Whewell's Courts upon application, provided that any set be vacant at the time, on condition of paying the usual rent, rates, taxes, charges for servants, &c.; and the Master and Seniors of Trinity College shall assign at their discretion such set of chambers being vacant to any Scholar claiming this privilege: but no Scholar shall be compelled to reside in either of the said Courts, unless he be a member of Trinity College.

The Subjects of Examination have for some time been as follows:—

1. General history of International Law, with special reference to the 17th and 18th centuries.

2. Foreign relations of the principal civilised states during a specified period, to be varied from time to time.

3 and 4. Present rules of Public International Law, including the subjects of Nationality, Jurisdiction and Domicile.

5. Problems, disputed points, and proposed changes in International Law.

6. Political philosophy, including the general theory of Law and Government, and Political Economy so far as it bears upon International Law.

The Examination is generally held at the beginning of June, notice of the subjects, including that of the "specified period," being given, in the Cambridge University Reporter, early in the preceding February. The number, price 3*d.*, may be had from Messrs Deighton and Bell.

## VII. YORKE PRIZE.

This prize consists of the nett income, after payment of the adjudicators, arising from the investment of a capital sum of £3689. 1*s.* 7*d.*, the residue (after payment of Chancery costs) of £3989. 19*s.* 3*d.* left by the late Edmund Yorke M.A., of St Catharine's College. The Regulations are as follows:—

1. That the prize be called the "Yorke Prize," to be awarded annually.

2. That each prize be awarded to the author, being a graduate of the University of Cambridge, of the best essay upon some subject relating to "The Law of Property, its Principles and History in various Ages and Countries." Such graduate shall not be of more than seven years' standing from admission to his first degree at the time when the exercises are directed to be sent in.

3. That the subject for each essay be selected and the prize adjudged by two or more Judges or Adjudicators selected and appointed by the Vice-

Chancellor, the Master of Trinity College, and the Master of Magdalene College, and approved by Grace of the Senate.

4. That the subject for each essay be announced and published before the end of November in each year, and that the exercises be sent in before the first of December of the year next but one succeeding[15]. That they be sent to the Vice-Chancellor in the same manner and form as are prescribed by the Regulations for the Chancellor's English Medal, and that the prize be awarded before the first of February following.

5. That each Adjudicator shall receive five pounds out of the income of the Fund.

6. That the Public Orator or one of the Professors or Public Functionaries of the University, who shall be able and willing to act, shall be invited by the Vice-Chancellor, the Master of Trinity College, and the Master of Magdalene College to act as Adjudicator in the event of such difference of opinion between the paid Adjudicators as shall prevent them from adjudging the prize, and that his decision in the case of any reference to him shall be conclusive.

7. That the successful competitor for every prize essay shall print and publish the essay at his own expense in such manner and within such

[15] For 1888 two subjects are to be announced. On one of these the exercise is to be sent in before the first of December 1889, on the other (under the new rule given above) before the first of December 1890.

period as the Vice-Chancellor and the Masters of Trinity and Magdalene Colleges shall from time to time direct, and that a copy thereof shall be sent to the University Library and to each of the Adjudicators.

8. That out of the income of the trust funds accrued due since the last previous adjudication of the prize the Adjudicators shall receive the amount payable to them, and that the residue of such income shall be paid to the successful competitor.

9. That if on any occasion the Adjudicators shall be of opinion that no essay sent in is deserving of a prize the amount of the prize for that occasion shall be invested in the purchase of £3 per cent. Consolidated Annuities to be added to the capital trust fund.

## VIII. CONSOLIDATED REGULATIONS OF THE INNS OF COURTS.

The following are the Regulations referred to on page 31.

### *The Examinations for Studentships and call to the Bar.*

42. The subjects for examination shall be the following:—

i. Jurisprudence, including International Law, Public and Private;

ii. The Roman Civil Law;

iii. Constitutional Law and Legal History;

iv. Common Law;
v. Equity;
vi. The Law of Real and Personal Property;
vii. Criminal Law.

43. No student shall receive from the Council the Certificate of fitness for Call to the Bar required by the four Inns of Court unless he shall have passed a satisfactory examination in the following subjects, viz., 1st, Roman Civil Law; 2ndly, The Law of Real and Personal Property; 3rdly, Common Law; and, 4thly, Equity.

45. The Council may accept as an equivalent for the examination in any of the subjects mentioned in Rule 43, other than Common Law and Equity—

i. A Degree granted by any University within the British Dominions, for which the qualifying examination was in Law;
ii. A Certificate that any Student has passed any such examination, though he may not have taken the Degree for which such examination qualifies him; and
iii. The Testamur of the Public Examiners for the Degree of Civil Law at Oxford that the Student has passed the necessary examination for the Degree of Bachelor of Civil Law;

Provided the Council is satisfied that the Student, before he obtained his Degree, or obtained such Certificate or Testamur, passed a sufficient examination in such subject or subjects.

46. There shall be four examinations in every year, one of which shall be held in sufficient time before each Term to enable the requisite Certificates to be granted by the Council before the first day of such Term. The days of examination shall be fixed by the Committee, and at two of such examinations, viz., at those to be held next before Hilary and Trinity Terms, there shall be an examination for Studentships.

47. As an encouragement to Students to study Jurisprudence and Roman Civil Law, Twelve Studentships of One Hundred Guineas each shall be established, and divided equally into two classes; one class of such Studentships to continue for two years, and to be open for competition to any Student as to whom not more than four Terms shall have elapsed since he kept his first Term; and another class to continue for one year only, and to be open for competition to any Student, not then already entitled to a Studentship, as to whom not less than four and not more than eight Terms shall have elapsed since he kept his first Term; two of each class of such Studentships to be awarded by the Council, on the recommendation of the Committee, after every examination before Hilary and Trinity Terms respectively, to the two Students of each set of competitors who shall have passed the best examination in both Jurisprudence and Roman Civil Law.

54. At every Call to the Bar, those Students who have obtained Studentships shall take rank in

seniority over all other Students who shall be called on the same day.

The candidates for examination in the Law Tripos who intend to avail themselves of the exemptions provided for in Regulation 45 should apply for certificates, as soon as possible after publication of the Tripos lists, by letter addressed to "the Regius Professor of Civil Law, Cambridge."

There will, however, it is hoped, always be a certain number of Cambridge Students who seek for honours or emolument rather than exemption from the Bar examinations. Such candidates will derive a very material advantage, not only from the general identity of the subjects with those which they have previously studied, but, in particular, from the encouragement given in London to Jurisprudence and Roman Civil Law, for the study of which there are peculiar opportunities at a University town as distinguished from London (above p. 35). It is perhaps to be regretted that a former Regulation, accelerating call to the Bar in the case of Candidates obtaining First class Honours, under the system of examination then observed, has not been retained in the case of Candidates obtaining Studentships.

Candidates for admission as **Solicitors** do not appear to derive any advantage, in the way of exemption, from the special study of Law at the University. The Preliminary examination is excused to all who have passed the Previous examination at Cambridge, and two years of service (as Articled

Clerk) to all graduates of Universities: those who have merely passed the Previous examination at Cambridge, without proceeding to a degree, have one year of service excused. Substantial advantage, however, in the Intermediate and Final examinations, will, no doubt, be enjoyed by those who have applied themselves especially to the study of English Law at Cambridge. Upon the subject of the admission of Solicitors, reference may be made to the Summary of Regulations published by the Incorporated Law Society, Chancery Lane.

In the particular point on which I venture to think that an alteration of these Regulations might be desirable—viz. exemption of candidates, who have passed such an examination as the Cambridge Tripos, from the London Intermediate examination —the consent of Parliament would, I believe, be required. Should steps be ever taken in this direction, I would submit the following considerations in favour of the change.

1. The books recommended by the Cambridge Law Board do now include, and are almost certain always to include, the elementary works on the Laws of England appointed by the London examination Committee.

2. The papers set in the Law Tripos are now, and are likely always to be, a more severe test than the Intermediate examination.

3. In the case of idle men the stimulus of recurring examinations is perhaps desirable; but the candidates under consideration are presumably

not idle men; they have already studied, and been examined in, the subjects of the Intermediate examination; and it may surely be questioned whether the time which must be devoted to special preparation (even though the candidate has passed in the same subjects before), might not be better spent in practical work or in preparing for the Final.

4. The exemption suggested would probably attract to the University a larger number of persons intending to practise as Solicitors, and induce a larger number of University students so intending to devote themselves specially to the study of Law at Cambridge.

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